Office of the Commissioner of Official Languages

Commissariat aux langues officielles

2006-2007

ANNUAL REPORT

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THE SPEAKER OF THE SENATE

Ottawa

Mr. Speaker,

Pursuant to section 66 of the *Official Languages Act*, I hereby submit to Parliament, through your good offices, the annual report of the Commissioner of Official Languages covering the period from April 1, 2006 to March 31, 2007.

Yours respectfully,

Graham Fraser

THE SPEAKER OF THE HOUSE OF COMMONS

Ottawa

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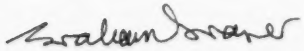
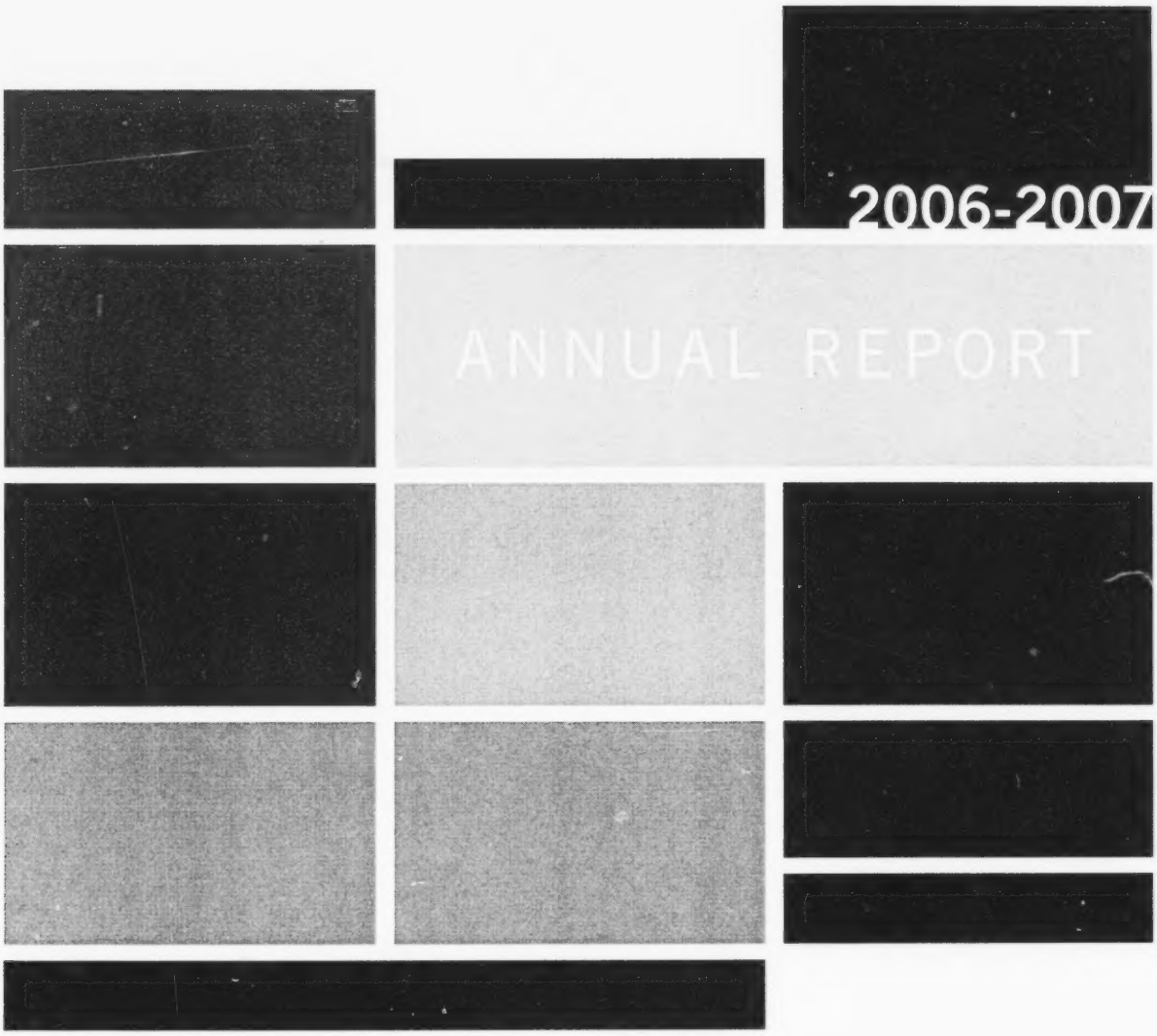


Graham Fraser

Office of the Commissioner of Official Languages

Commissariat aux langues officielles



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Summary

The Commissioner of Official Languages, Graham Fraser, presents in the following pages his first annual report, providing an account of the main activities of the Office of the Commissioner over the last 12 months.

The Commissioner begins with a foreword that sets the tone for his seven-year term. In it, he communicates his vision of official languages in Canada—a vision that evokes the importance and richness of English and French as Canadian languages. The Commissioner envisions a Canada in which both official languages form an integral part of the national identity and dialogue and in which the values of respect, generosity and integrity serve as a foundation for Canadian language policy.

Implementation of the *Official Languages Act*

The *Official Languages Act* (the Act) is the driving force behind the application of the language rights conferred by the *Constitution Act, 1867* and the *Canadian Charter of Rights and Freedoms*. An overview of the implementation of the Act over the past year leads the Commissioner to qualify the federal government's handling of the matter as paradoxical. On the one hand, statements made by the Prime Minister and the Minister for Official Languages are reassuring. Each has affirmed the government's support for linguistic duality as one of the foundations of Canadian society. On the other hand, there has so far been little demonstration of a will to act. Regarding the amended Part VII (Advancement of English and French), for instance, implementation has been spotty and inconsistent. The Commissioner believes that the federal administration is still having difficulty understanding the scope of the governmental obligations that ensue from the legislative amendment. Furthermore, as regards the implementation of Parts IV (Communications with and Services to the Public) and V (Language of Work) of the Act, the results are mixed.

More uniform management of official languages

The federal government's choices regarding management of the Official Languages Program play a significant role in the achievement of substantive language equality. Consequently, this report examines the management and structure of the Program.

The Commissioner noted that concrete results are starting to show in many areas targeted by the *Action Plan for Official Languages*. Health, immigration and access to justice in both official languages are some of the areas in which the most progress has been made. For a number of other areas, including early childhood, workforce training and economic development—areas that are nonetheless

critical to the vitality of official language communities—results have been much less convincing. Real progress also remains to be made on initiatives involving language of work and service to the public. In addition, the level of bilingualism in the federal public service is advancing slowly, particularly among senior public servants. As for education (education in the language of the minority and second-language instruction), concrete results are still unknown.

Despite the initial apathy of certain institutions and occasionally inadequate coordination, the *Action Plan for Official Languages* has proved largely successful. In particular, it has given the official languages policy new momentum and helped offset the effects of the budget cuts experienced by official language minority communities in recent years.

In 2006, major changes were made to the structure of official language governance. These modifications are a source of concern for the Commissioner, who remains unconvinced of their validity. He wonders whether the changes will truly improve the way official languages are managed. The Commissioner therefore intends to follow this reform closely.

Positive measures: Off to a slow start

The concept of "positive measures" as set out in the amended Part VII of the Act brings fresh hope to official language communities, which rightfully expect a more proactive management of official languages by the federal government and its institutions.

As chief architect of the official languages policy, the federal government is committed to taking "positive measures" with a view of "fostering the full recognition and use of both English and French in Canadian society." While the notion may at times be difficult to define, the promotion of linguistic duality is the responsibility of every federal institution. Each one must help shape it.

The government is also committed to taking "positive measures" to enhance "the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development." Studies by the Office of the Commissioner show that official language communities have expectations toward federal institutions in this respect. The Commissioner has developed three principles that will help the federal government understand the meaning of "positive measures" better. These principles can be summarized as follows: a proactive and systematic approach and targeted treatment (the Part VII "reflex"), active participation by all Canadians, and a constant improvement process for the policies and programs according to Part VII.

Successful implementation of Part VII also depends on sound accountability mechanisms. More needs to be done in this respect. Canadian Heritage in particular must assume greater responsibility by focusing more on institutions' results when they receive reports from them.

Compliance assurance

The Commissioner gives a somewhat mixed assessment of the compliance activities that have been carried out over the past year in relation to the Act. On the one hand, he is pleased to note that, at the program management level, commitment to official languages is more evident in key institutional documents. He also notes an increase in the number of senior executives that meet the language requirements of their positions in the departments that were evaluated. As in previous years, the institutions obtained very good results this year in the area of equitable participation.

On the other hand, the findings also bring to light some serious weaknesses. Active offer by staff, a legal obligation, is an area of particular concern. The findings show that an active offer is only made one time out of ten, a situation the Commissioner considers completely unacceptable.

Recommendations

The Commissioner recommends that the Minister for Official Languages, in cooperation with the communities, provinces and territories, create an initiative, over the coming year, that will succeed the *Action Plan for Official Languages* and consolidate what has been gained. During the design process, the federal government must carefully consider expanding the scope of the Action Plan to include, in particular, arts and culture, youth initiatives and new measures for promoting linguistic duality.

The Commissioner recommends that the Minister for Official Languages review the *Official Languages Accountability and Coordination Framework*, not only in light of the changes made to official language governance, but also to better reflect the obligations and responsabilities of federal institutions following the legislative amendments of November 2005.

The Commissioner recommends that the Minister for Official Languages ensure Canadian Heritage review its accountability mechanisms for the implementation of sections 41 and 42 of the Act in order to place more emphasis on results.

The Commissioner recommends that the Minister for Official Languages ensure Canadian Heritage take a more transparent approach in the implementation of section 41 of the Act when determining the institutions that have the most significant impact on communities and on the promotion of linguistic duality.

The Commissioner recommends that deputy heads in federal institutions ensure that front-line employees and all agents who respond to client enquiries actively offer services in both official languages at first contact in order to enhance the use of the public's official language of choice.

Foreword

Graham Fraser

Building Bridges

Annual reports, as every investor knows, contain their share of inflated narrative. Reports by commissioners of official languages are different. Part mission statement, part report card, they have the formidable task of summarizing the highly complex and changing landscape of language policy in Canada, assessing progress (or lack thereof) in achieving objectives and making recommendations as to how the goals of government policy can be achieved. This report is unusual in two respects. To begin with, it is my first, and like my five predecessors, I will try to set some long-term goals and objectives as I begin my seven-year mandate. Secondly, I was Commissioner only for a few of the 12 months that it covers.

The simplest—and hardest—question I have been asked, after leaving journalism and assuming the responsibilities of Commissioner, has been, "What is your vision? What do you want to accomplish over your seven-year mandate?" The short answer is that I want English and French to be fully appreciated, not as foreign languages, but as Canadian languages: central elements of Canadian identity that are critical to the national discourse.

I want the federal government to meet its responsibilities. Over the last four decades, we have invested substantially in language policy, and yet it remains misunderstood. We have built the elements of a language policy that can work, and yet the pieces are poorly connected, creating a system that is often dysfunctional. I think that the primary value underpinning Canadian language policy should be respect: respect for both official languages, for unilingual Canadians and for minority language communities; respect for citizens, taxpayers, parliamentarians and public servants.

Canadian language policies are rights-based, but they are also values-based. In a recently published book, McGill University law professor William Tetley described the fundamental values at stake—values I consider critical to the mandate I have undertaken as Commissioner of Official Languages: respect, generosity and integrity.[1]

When I appeared before the parliamentary committees that considered my nomination as Commissioner, I described the job as part cheerleader, part nag. Indeed, the functions of the office as defined by the *Official Languages Act* (the Act) fall into the two categories of promotion and protection. However, stressing the duality of these two fundamental elements amounts to an overly simplistic view of the Act and the role of the Commissioner's office. In reality, promotion and protection are closely entwined. It is true that an ombudsman function exists to respond to complaints and investigate them fully; to audit departments and agencies to monitor whether

1 William Tetley, *The October Crisis, 1970: An Insider's View* (Montréal: McGill-Queen's University Press, 2007), p. xxviii.

their responsibilities under the Act have been met; and to use the Commissioner's powers of judicial intervention—but all of those activities also involve the promotion of the spirit as well as the letter of the Act. And while it is true that there is an educational function, a mediator's role and a monitoring process, those activities, in leading to a better understanding of the policy, lead to compliance with the Act. It is a virtuous circle: each activity reinforces the others.

Some people have asked me whether I intend to use carrots or sticks. Others have asked whether I intend to emphasize the "insider" functions of the position to deal with legislators and opinion leaders, or the "outsider" aspects to use the considerable investigative and judicial powers of the Commissioner to ensure compliance with the Act. In his very first report, Keith Spicer described these choices as such, and wondered, "Should the Commissioner be Machiavelli or Maigret? Don Quixote or Dr. Kildare?" In some ways, those choices still exist. However, the Commissioner must be prepared to play all of these roles: behind-the-scenes political actor, impartial investigator, crusading idealist and empathetic listener. Rather than emphasizing one role over another—stressing the ombudsman function rather than the educational and promotional responsibilities, for example—I hope to integrate the different aspects of the job to advance the status of English and French in Canada and ensure equal status between the two languages in federal institutions and, more widely, in Canadian life.

I have always found it useful to go back to basics. Forty years ago this fall, Pierre Trudeau, then Minister of Justice, laid out the fundamental principles of language rights: the right to learn and the right to use. The entire edifice of language rights that has since been created—the Act (1969), the *Canadian Charter of Rights and Freedoms* (1982) and the amended versions of the Act (1988 and 2005)—rests on those two very simple but quite sweeping principles: the right to learn and the right to use.

This year marks the 25th anniversary of the *Canadian Charter of Rights and Freedoms*. During the last quarter century, the Charter has introduced a critical, but not the sole, voice into a Canadian conversation about language that has lasted 45 years. Language rights have developed and advanced in Canada over the last quarter century through an elaborate three-way discussion between the Canadian Parliament—often engaged in its own dialogue with, first, the Royal Commission on Bilingualism and Biculturalism and then the Commissioner of Official Languages—the provinces and the Canadian courts. It is a conversation during which the Charter, far from Americanizing Canada, has led to a new jurisprudence, building on the critical relationship between Canada's English-speaking and French-speaking communities: a relationship that has defined our past, underpins our present and will continue to shape our future.

Indeed, some of the most eloquent statements about the importance of language as an element of personal and collective identity have emerged, not from Canada's universities or from debates in Parliament, but from Supreme Court decisions. ". . . Language is not merely a means of interpersonal communication and influence. It is not merely a *carrier* of content, whether latent or manifest," the Court wrote in 1988. "Language itself *is* content, a reference for loyalties and animosities, an indicator of social statuses and personal relationships, a marker of situations and topics as well as of the societal goals and the large-scale value-laden arenas of interaction that typify every speech community."[2]

In those words, and in other decisions, the echoes of the Canadian discourse on language, which has included voices as varied as those of André Laurendeau, Marshall McLuhan and Camille Laurin, can be heard. However, this discourse did not begin with the ratification of the Charter in 1982. As far back as the early 1960s, Parliament began to respond to the obvious political, economic and social disparities that existed between English-speaking and French-speaking Canada. In 1962, Créditiste members of Parliament—many of whom spoke no English—complained that the Canadian Parliament was an overwhelmingly English-speaking institution: the Orders of the Day were in English only, the rules of procedure were in English only, the menus in the parliamentary restaurant were in English only and the security guards spoke no French. In 1963, Lester Pearson appointed the Royal Commission on Bilingualism and Biculturalism, which told Canadians in 1965 that Canada was passing through the greatest crisis in its history.

[2] *Ford* v. *Quebec (Attorney General)*, [1988] 2 S.C.R. 712, at 750.

The Royal Commission addressed the paradox of official bilingualism: a paradox that is still widely misunderstood. An official languages policy does not exist to require everyone to learn two languages—though clearly, if no one is bilingual, the policy cannot succeed. An official languages policy exists for two fundamental reasons: to protect the unilingual and to protect minority language communities. There are four million unilingual French-speaking Canadians in Canada. One of the key reasons that the Act exists is to ensure that they get the same level of service from the federal government as the 20 million unilingual English-speaking Canadians. There are also one million French-speaking Canadians who live in minority communities across Canada and almost one million English-speaking Canadians living in minority communities in Quebec. These communities deserve not only to survive, but also to thrive, and in 2005, Parliament amended the Act for only the second time to require that the government take positive measures to help these communities develop.

The Charter came about as a series of political compromises. Even though the Quebec National Assembly refused to sign the Constitution, section 23 was drawn up in a manner that took into account Quebec's ongoing language debate. The fact that compromise ensued from the three-way dialogue referred to earlier has not diluted the nature of those rights.

The Supreme Court has made it clear that any political compromise involved in reaching decisions involving language rights should not limit those rights. As Supreme Court Justice Michel Bastarache noted, ". . . the political compromise doctrine, by which constitutional language rights ought to be construed narrowly, on account of their origin, has been repudiated and replaced by a generous, purposive approach to the interpretation of language rights."[3]

Justice Bastarache cites three cases that revived and defined language rights, *Reference re Secession of Quebec*,[4] *R.* v. *Beaulac*[5] and *Arsenault-Cameron* v. *Prince Edward Island*,[6] in tivity to the context of language rights was required and the unwritten principle of the protection of minorities was clarified. In *Reference re Secession of Quebec*, the Court stated its position clearly: "We emphasize that the protection of minority rights is itself an independent principle underlying our constitutional order."[7]

The Royal Commission made an observation that has been reiterated by my predecessors: French will only thrive in Canada if it flourishes in Quebec. And French has flourished in Quebec over the years. Rather than undermine or crush that flourishing, as some Quebec nationalists have claimed, federal programs have supported it: through the financing of Radio-Canada, the National Film Board of Canada, Telefilm Canada, the Canada Council for the Arts, the Canadian content and French-language regulations for radio (which have proved immensely beneficial to the French-language music and recording industry), French-language publishing and translation support programs, and the requirements of the Act, which have ensured that federal employees in Quebec and in regions designated bilingual have the right to work in French.

At the same time, English-language culture continues to thrive in Quebec. The extraordinary generation that stretched from F. R. Scott, A. M. Klein and Irving Layton to Mordecai Richler and Leonard Cohen has passed on or left the community. However, the new generation succeeding it includes authors as varied as Rawi Hage, the visual artist and curator whose novel *DeNiro's Game* was nominated for a Giller Prize; William Weintraub, a friend and contemporary of Richler's; widely respected novelists Neil Bissoondath and Trevor Ferguson; successful authors of popular fiction like Louise Penney and Kathy Reichs; and novelist, essayist and literary journalist Joel Yanofsky. Gradually, the role of English-language culture in Quebec is gaining official recognition from the linguistic majority. Essayist and poet David Solway won the Grand Prix du Livre de Montréal, and Mavis Gallant was the first Quebec Anglophone to be awarded the Prix Athanase-David. The Montréal literary festival Blue Metropolis has emerged as an important crossroads of cultural diversity. The international impact of music groups like Arcade Fire and The Dears, the

[3] Michel Bastarache, ed., *Language Rights in Canada*, 2nd edition (Montréal: Éditions Yvon Blais, 2004), pp. 27–28.
[4] *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217.
[5] *R.* v. *Beaulac*, [1999] 1 S.C.R. 768.
[6] *Arsenault-Cameron* v. *Prince Edward Island*, [2000] 1 S.C.R. 3.
[7] *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, at 80.

continuing musical influence of the McGarrigles (and their expatriate offspring Rufus and Martha Wainwright),the success of cultural events like Pop Montreal and rising music groups like Wolf Parade, The Besnard Lakes and Think About Life continue to demonstrate the edgy vitality of Anglophone popular culture in Quebec.

And while Quebeckers such as playwright and novelist Michel Tremblay, stage and film personality Robert Lepage and filmmaker Denys Arcand are well known throughout the world, we often forget that Francophone culture is equally vibrant throughout all of Canada. For example, New Brunswick native Marie-Jo Thério has enjoyed a successful career in both Canada and Europe; born and raised in Manitoba, world-renowned architect Étienne Gaboury has completed more than 300 projects in Canada and internationally; and Joe Fafard, one of Canada's most famous artists, hails from Saskatchewan and continues to live and work in Regina. Their success has paved the way for up-and-coming performers like Corneille, Stefie Shock and Fredric Gary Comeau, who are increasingly able to reach a wider audience by participating in the large number of festivals held across the country: the Festival du Voyageur began as a celebration of Canada's fur trading and Francophone past and has grown to become one of the country's largest winter festivals, the Festival international du cinéma francophone en Acadie screens films from all over the world and the Festival franco-ontarien is preparing its 32nd edition. These cultural gatherings not only serve as a showcase for Francophone culture, but also encourage non-Francophones to attend and participate, further evidence of the fact that the distinction between English and French is blurred in our country and that Francophone culture belongs to all Canadians.

Since becoming Commissioner on October 17, 2006, I have had the opportunity to witness concrete examples of this cultural vitality first hand. I have travelled across Canada, visiting Vancouver, Saskatoon, Regina, Toronto, Waterloo, Sudbury, Montréal, Moncton, Halifax and Charlottetown. I have met with minority community representatives, visited schools, talked to university administrators and professors, and conversed with federal and provincial officials. I was struck by the variety, diversity and vitality of Canada's official language minority communities. Cultural diversity is a universal phenomenon in Canada, one that occurs in minority communities in much the same way as it occurs in majority communities.

In fact, one of the dramatic changes that has occured in the linguistic landscape is that both Anglophone and Francophone communities are now welcoming newcomers, which was not always the case in the past. These newcomers often realize the importance of linguistic duality to Canada's identity much more quickly than many native-born Canadians do. Indeed, the proof—if proof were needed—of the fact that cultural diversity and linguistic duality are complementary and not contradictory lies in our last two governors-general. Both Michaëlle Jean and Adrienne Clarkson came to Canada as young girls, one from Haiti and the other from Hong Kong; both joined one language community; and both decided that, to truly participate in the Canadian conversation, they would become not just competent, but eloquent, in both official languages.

I also met with the Welsh Language Board in Cardiff and my counterpart, the Irish Official Languages Commissioner, in Galway, and spoke at a language policy conference in Belfast. I was invited to address a conference in Helsinki sponsored by the Finnish Parliament to celebrate its 100th anniversary, and I met with officials in Belgium and at the European Union in Brussels. These meetings made me realize that both Canadian language legislation and the Office of the Commissioner of Official Languages are considered models for the international community and are being closely monitored by other countries.

These visits also reinforced the view that globalization and technological advancements have had a counterintuitive effect on language, culture and identity. While the changes of the late 20th and early 21st century have made English the dominant language for international trade and communications, the determination of minority languages and cultures to develop and grow has increased. I learned in Wales of how the cultural revival of Welsh has led Microsoft to adapt its software for the use of some 600,000 Welsh speakers. In Ireland, I saw how the Commissioner of Official Languages uses the Canadian example to advance the use of Gaelic,

which has been recognized as an official language by the European Union. I also visited an Irish-language school in Belfast that has proven to be one of the most academically successful schools in Northern Ireland.

I came to this position with the sense that language in Canada should be seen through the prism of ecology. Like ecological zones, which are defined by their requirements for water, sunlight, heat or cold, language communities need a certain number of elements in order to thrive. These include education, health care, and cultural and economic resources. Many of these elements have been developed over the last 40 years as part of the nation's ongoing language debate. I have driven across Saskatchewan listening to Radio-Canada on a car radio; I have visited a French-language school in Vancouver whose students spoke 30 languages between them at home; I have attended the Salon du Livre du Grand Sudbury; and in Ottawa and Montréal, I have heard students from immersion programs across Canada engage in vigorous debates in French. None of this was imaginable in the 1960s. The emergence of several solid elements has helped build a language policy that can work.

But there are huge gaps. Many of these elements are badly connected. Parts of the system are dysfunctional. The links essential to a healthy ecological system are lacking, resulting in frustration and wasted investment.

One of the pillars of Canadian language policy is the right to instruction in either official language. Enshrined in section 23 of the *Canadian Charter of Rights and Freedoms*, this right defines who can attend minority-language schools. Subsequent court decisions have fleshed out this right, ensuring that parents can manage and control their educational institutions and programs,[8] that parents are entitled to equal access to schools[9] and that English-speaking parents who attended immersion schools outside of Quebec have the right to send their children to English-language schools in Quebec.[10]

Nevertheless, that right to learn is narrowly defined in terms of the rights of the minority to receive instruction in the language to which they are now constitutionally entitled: a right that was shamefully withheld a century ago and has now been restored. What remains undefined is the right to second-language learning.

Even though public support for bilingualism in Canada remains high, government support for second language instruction, particularly French-language instruction, has waned in some parts of the country. Studies have shown the effects that drastic cuts to the federal government's Official Languages in Education Program and the weakening provincial support for French-language teaching in several provinces have had, in spite of the investments that have been made under the *Action Plan for Official Languages*. Dr. Scott Kissau of the University of Windsor, for example, has documented what he calls "the depreciated status" of French-language teaching in Canada.[11]

At the same time, mastery of a second official language is critical to ensuring that the right to use a chosen official language holds meaning. If medical staff in Quebec cannot speak English, Anglophones in Quebec cannot hope to receive the health services to which they are entitled, be they patients in the veterans' hospital in Sainte-Anne-de-Bellevue or First Nations communities in Northern Quebec (where health care is the federal government's responsibility). If Air Canada personnel cannot speak French, Francophone passengers cannot receive the services they are entitled to. If public servants in bilingual regions are not comfortable using both English and French, then the right to work in the official language of choice is meaningless.

There are four reasons for public servants to master both official languages: to serve the public, who have the right to service in English or French; to serve ministers, who may want to be briefed in the official language of their choice;

[8] See Michael D. Behiels, *Canada's Francophone Minority Communities: Constitutional Renewal and the Winning of School Governance* (Montréal: McGill-Queen's University Press, 2005).

[9] "Substantive equality under s. 23 requires that official language minorities be treated differently, if necessary, according to their particular circumstances and needs, in order to provide a standard of education equivalent to that of the official language majority. Owing to the variety of circumstances encountered in different schools and the demands of a minority language education itself, providing the same form of educational system to the minority and the majority may be impractical and undesirable. Focussing on the individual right to instruction at the expense of the linguistic and cultural rights of the minority community effectively restricts the collective rights of the minority community. A school is the single most important institution for the survival of the official language community, which is itself a true beneficiary under s. 23." *Arsenault-Cameron* v. *Prince Edward Island*, [2000] 1 S.C.R. 3.

[10] *Solski (Tutor of)* v. *Quebec (Attorney General)*, [2005] 1 S.C.R. 201.

[11] Scott Kissau, "The Depreciated Status of FSL Instruction in Canada," *Canadian Journal of Educational Administration and Policy* 44 (August 1, 2005).

to manage other public servants, who have the right to work in English or in French; and, perhaps just as importantly as any of these, to understand the country as a whole. Yet all too often, language requirements in the public service are seen as obligations rather than opportunities, as boxes to be ticked rather than an essential skill, as hoops to be jumped through rather than the ability to communicate. One senior public servant told me that a colleague once said to him, "I just got my C level [the highest language proficiency level required for senior management]—now I'll never have to speak French again!"

In order to effectively participate in the public service and acquire its values and competencies, mastery of both official languages must be seen as a matter of leadership, respect, communication and openness rather than one of regulation, obligation and tests. How can one be a leader without being able to understand or communicate with those one seeks to lead? How can one respect one's employees without communicating with them in the official language of their choice? How can one respect the public without respecting its language rights? How can one respect elected representatives without communicating with them in their preferred official language? Above all else, the key concept is respect.

Being at ease in both official languages is now crucial for political leadership and for reaching the senior levels of the Canadian Forces and the federal public service. Nevertheless, funding for immersion education has been capped: the number of immersion students has remained constant at 300,000 for over a decade, places are often distributed by lottery and many school boards are reluctant to respond to demands for more immersion programs. There is a shortage of French-language teachers. There is a gap between supply and demand. This seems absurd: no school board would dare tell parents that it is too difficult to provide quality instruction in geometry or trigonometry. A slogan for parents seeking quality instruction in French for their children could be "Parity With Algebra!"

At the same time, the organization Canadian Parents for French reports that adolescents are being advised by school counsellors to drop French, since there is no perceived advantage in terms of university admission. The result is a dramatic drop-off in French enrolment as 14-year-olds make rational, pragmatic decisions about their future and their self-interest. Since second-language admission requirements have now been waived by many Canadian English-language universities, there is little incentive for students to remain in French immersion. Indeed, there is a perverse incentive to drop immersion: students who quit French immersion are almost guaranteed higher marks in a less demanding French course, ensuring better chances of admission to the post-secondary institution or training program of their choice.

It seems absurd that the future of English-Canadian bilingualism should rest on the shoulders of 14-year-olds. The federal government is committed to doubling the proportion of bilingual 15-to-19-year-old Anglophones and Francophones from 24 to 50 per cent by 2013. This was one of the key commitments of the 2003 *Action Plan for Official Languages*. In June 2006, the Honourable Josée Verner, Minister for Official Languages, committed to keeping in place the resources necessary to reach this goal, telling the House of Commons Standing Comittee on Official Languages that her government has no intention of ever providing less than what was anticipated in the Action Plan.

In order to achieve these objectives, a number of conditions need to exist. To begin, provinces and school boards must be held accountable for the money they receive from the Official Languages in Education Program—funds transferred to the provinces by the federal government to contribute to second-language education. Incentives are needed to encourage students to stay in French programs, whether the programs are French immersion, intensive French or core French. In addition, universities have to recognize that English and French are Canadian languages, not foreign languages, and provide opportunities for students to maintain or acquire skills in the other official language, whether through classroom instruction, summer jobs or exchange programs. It should be very easy for students to spend the third year of a four-year university program in an institution of the other official language. Too often, university students have told me that they feel they are losing the French they

learned in high school and wonder where they can find a summer job or summer program that would allow them to retain what they have learned. Those programs and that information should be well known and readily available.

Professional programs should recognize the critical importance of language mastery in Canada. However, even public administration programs—which, at least in theory, prepare students for careers in the highest levels of the public service—pay little attention to language requirements. How can young people aspire to positions of leadership in the public sector in Canada without being able to understand the other official language community, with its four million unilingual Francophones on the one hand and 20 million unilingual Anglophones on the other? Surely in a public service where employees have a right to work in the official language of their choice, mastery of both languages is a critical leadership attribute. Nevertheless, it is all too frequently placed in the notional category of losing 10 pounds or reading *War and Peace*: a worthy project to be embarked upon at some later, unspecified time.

To their credit, some Canadian law schools have recognized the importance of Canada's bijural legal system and the critical interaction of the common law tradition with the Civil Code, most notably in the Charter, and have recognized that every piece of federal legislation in Canada is drafted in both languages. But lawyers too often learn only half the law: the English half or the French half.

Journalism schools sometimes pay lip service to the importance of understanding both official languages, but many, if not most, graduates of Canadian journalism schools are unable to cover Francophone politicians speaking to their constituents. Consequently, a significant number of journalists in the Parliamentary Press Gallery require simultaneous interpretation to ensure that the Prime Minister, and all other politicians, are not saying different things in English and French.

These gaps run through Canadian society like ravines, dividing Canadians from each other and their common institutions. My hope is that I can help bridge the gaps between the majority and minority communities, between the minority communities and the government and, in some cases, between the minority communities themselves.

What is my initial environmental assessment of the ecology of language in Canada?

There are some positive signs. In November 2005, all parties except the Bloc Québécois voted to amend the Act so that the federal government would be legally required to take "positive measures" to enhance the vitality of Canada's English and French linguistic minorities and support and assist their development. In the spring of 2006, following the election of a new Conservative government, Minister Verner reiterated her government's support for the amended act. Several government departments are preparing to respond to the Act's new requirements.

Prime Minister Stephen Harper has fully respected the use of both official languages in his own public statements, whether he is in Canada or abroad, whether he is making announcements in Southern Ontario, travelling to foreign countries or participating in G8 meetings. In so doing, he has served as an important role model for other public officials.

However, there have been disturbing signs that other members of government do not take official languages as seriously as the Prime Minister does. In discussions of public service renewal and the need to recruit new employees to replace the generation of senior public servants now approaching retirement, there has been little reference to language as a critical component of leadership. The Official Languages Secretariat was transferred from the Privy Council Office to Canadian Heritage, suggesting that it is now less important, while the Canada School of Public Service is no longer responsible for offering language training.

At the same time, the Finance Minister and the Treasury Board President announced a series of cuts on September 25 whose effect on official languages included the elimination of the Court Challenges Program and the Innovation Fund, which financed new initiatives to encourage the use of both English and French in the public service.

While these actions occurred before I took office, my predecessor described them as a step backward at the time. The 40 complaints that were on my desk when I began my mandate on October 17 have increased to over 100. Without wanting to compromise the current investigation

into those complaints, I will say that I have found it difficult to reconcile the comments made by Minister Verner in the spring and the actions taken by the government in the fall. It should also be mentioned, however, that when the last federal budget was tabled, $30 million in additional funding was announced, which should directly contribute to enhancing the vitality of official language communities. While this is certainly good news, few details are currently available on this subject.

There are other trends that I find worrisome as well. For example, I have already expressed deep concerns about the imbalance between the planned English and French broadcasting of the 2010 Olympics. Also, in the name of efficiency, government regional offices have been transferred from New Brunswick to Nova Scotia—which is to say, from a bilingual to a unilingual region—making it impossible to maintain previously existing language of work rights and much more difficult to deliver services in both languages. The official languages dimension always seems to be easily forgotten, especially when it comes to language of service and communications, and even more so when it comes to language of work. Furthermore, there are plans to sell federal buildings in the National Capital Region, an action that would absolve the tenants in those buildings of their responsibility to provide services in both English and French. Similarly, there are plans to install the National Portrait Gallery in Calgary and the federal government provided national museum status to the planned Human Rights Museum in Winnipeg. I am concerned about the degree to which these national institutions will be able to provide services in both official languages and worried about the apparent lack of consideration for this critical component of our national cultural institutions. In all of these plans, linguistic duality appears to be more of an afterthought than a central aspect of the missions of federal institutions—a notion that implies a dangerous risk of backsliding.

Considerable challenges lie ahead. In the short term, I am determined to ensure the success of the amendments to the Act and see to a spirit of constructive collaboration as government departments and agencies join with minority communities to reflect on the positive measures that can and must be taken to enhance community vitality. In the longer term, I have already taken steps to monitor preparations for the Vancouver 2010 Olympics and to ensure that Canada's linguistic duality is reflected not only in the Games, but also in their broadcasting.

Canada is undergoing a process of rapid change, demographically, economically, socially and culturally. The post-war generation that has shaped Canada's current environment is reaching retirement age, and the challenge of replacing these members of the workforce is immense. Hundreds of thousands of newcomers arrive in Canada every year, attracted by our international reputation for tolerance, openness and generosity. New technologies are transforming how Canadians communicate and how they obtain and share information. Cultures are changing in response to those new technologies.

Language is central to every one of these changes. Ensuring that these changes take Canada's official languages into account is a continuing obligation, and I will be working hard to perpetuate the spirit as well as the letter of the *Official Languages Act* within Canadian society. For Canada to be successful, language policy has to be successful, and I will spare no effort over the next seven years to help achieve that success.

CHAPTER 1

OVERVIEW OF THE IMPLEMENTATION OF THE *OFFICIAL LANGUAGES ACT*

Overview of the implementation of the *Official Languages Act*

Introduction

The *Official Languages Act* (the Act) is a vital instrument for Canada in the transition from neglecting language matters to creating a policy centred on the values of equality, cultural vitality and commitment toward official language minority communities. Today the Act is the driving force behind the implementation of the language rights conferred by the *Constitution Act, 1867* and in the *Canadian Charter of Rights and Freedoms*. If linguistic equality is everyone's business to some extent, the fact remains that it is officially the federal government's responsibility.

This year, the new Commissioner of Official Languages has chosen to dedicate the first chapter of his report to an overview of the implementation of the Act. To do so, he analyzed the work of federal departments that play a key role in the implementation of the Act. He also analyzed the application of the *Action Plan for Official Languages*. The Commissioner assessed the work of 37 federal institutions by examining their performance report cards. His work was further based on an analysis of the complaints received and the audits completed in recent months.

To what degree has the Act been implemented in the last year? First, the situation must be put into context, starting with the government that came into power last year. The newly elected prime minister set an example by speaking French regularly and making frequent reference to the importance of the French language in Canada's history. The government also stated its intention to support the implementation of the Act—a fact that was proclaimed loudly and clearly by the Minister for Official Languages. "I would also like to remind you of the Prime Minister's full, personal commitment to official languages and particularly to the French language, which he uses often. The government's support of linguistic duality, as a foundation of Canadian society, remains unequivocal," she declared.[12]

In spite of this, the Commissioner gives a somewhat mixed assessment of the official languages situation. While

[12] Appearance before the House of Commons Standing Committee on Official Languages of the Honourable Josée Verner, Minister for Official Languages, June 8, 2006.

the federal government can congratulate itself on having adopted a favourable stance on the promotion of official languages, it has not always managed to turn rhetoric into action. There is still a lack of understanding within the federal administration as to how the amended Part VII affects government obligations. Most federal institutions are still unclear on how to give form to these obligations in their respective areas of operation. Yet, to take "positive measures" and truly engage in the dialogue that should ensue, federal institutions must first be able to grasp the concept. Moreover, in terms of the implementation of Parts IV (Communications with and Services to the Public) and V (Language of Work), results were mixed.

This chapter examines these issues. It will begin by addressing the implementation of the amended Part VII (Advancement of English and French) and then continue with an overview of the implementation of Parts IV and V.

Implementation of Part VII

In November 2005, Canadian parliamentarians chose to enhance the Act for the first time since 1988 by amending Part VII. Federal institutions are now obligated to take "positive measures" to translate the government's commitment to promoting linguistic duality and community development into action. This legislative reinforcement ushers in a new era for official languages in Canada.

In practice, Part VII aims first and foremost to allow official language minority communities to enjoy the same benefits from federal policies and programs as the majority community does. Furthermore, in promoting linguistic duality, Part VII aims to give tangible form to the equal status of English and French in Canada. Entitled "Advancement of English and French," Part VII obligates the government in two ways. First, it commits the government to "enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development." Second, it imposes the duty of "fostering the full recognition and use of both English and French in Canadian society."

Commitments referred to in Part VII (Advancement of English and French)

41(1) The Government of Canada is committed to

(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and

(b) fostering the full recognition and use of both English and French in Canadian society.

41(2) Every federal institution has the duty to ensure that positive measures are taken for the implementation of the commitments under subsection (1). For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.

41(3) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer or office of the Ethics Commissioner, prescribing the manner in which any duties of those institutions under this part are to be carried out.

Awareness in federal institutions

Canadian Heritage and Justice Canada play key roles in the implementation of Part VII. Canadian Heritage in particular is in charge of coordinating the implementation by federal institutions of the government's commitments set forth in Part VII. For its part, Justice Canada must monitor potentially contentious files and ensure that government policies, programs, initiatives and documents comply with both the Act and the Constitution.

When Part VII was amended, Canadian Heritage, Justice Canada and the Public Service Human Resources Management Agency of Canada set up a work group to

monitor federal institutions in regards to their new obligations. The group is working together to create a guide for institutions on the implementation of section 41, among other things.[13]

The Commissioner also notes that Canadian Heritage and Justice Canada have undertaken substantial efforts to make federal institutions aware of their duties under the amended Part VII. These departments began their efforts the moment the amendment was passed in November 2005. They organized a travelling presentation, which was given to more than 45 federal institutions. Their target audience was official languages champions, departments and Crown corporations, official languages coordinators, federal councils, deputy ministers, regional managers and the management committees of certain federal institutions. For the most part, the presentations were well received, and all those who participated are now aware of the amendments to Part VII.

Nevertheless, the expression "positive measures" is still not completely understood. Information gathered over the course of the year by the Office of the Commissioner indicates that the conduct of many public servants falls short of embodying the will of parliamentarians. While some departments have already created committees and processes to address the issue,[14] it seems that the notion of "positive measures" has yet to be fully absorbed. Many public servants do not know what effect the amended legislation has on their day-to-day activities. Evidence of this can be found in the fact that some have called upon the Office of the Commissioner of Official Languages to answer their questions.

Moreover, an examination of the content of the Canadian Heritage and Justice Canada presentations reveals certain inconsistencies between the messages conveyed to federal institutions and the spirit of the Act. Justice Canada in particular tends to interpret the amendments in a restrictive manner, advising caution above all to federal institutions. Rather than encouraging federal institutions to find creative and innovative solutions to respond to legislative changes, this department has favoured a defensive approach.

Awareness in communities

The Commissioner notes a certain scepticism within official language communities, which have not noticed any changes in the government's actions and attitude since the amendment was passed.

The Commissioner would have liked Canadian Heritage to be more enthusiastic in making the communities aware of the meaning and potential of "positive measures." As coordinator responsible for implementing the government's commitments, the Department has not fully engaged in a dialogue with the official language communities on this subject. The Department should have shown greater leadership in this area.

As a first step towards implementing Part VII, many official language communities would like federal institutions to facilitate dialogue and give them a chance to communicate their expectations.

Promotion of linguistic duality

While many federal institutions have difficulty understanding their obligation to promote community development, they also struggle to implement their obligations in terms of promotion of linguistic duality. In fact, the promotion of linguistic duality has for the most part not been mentioned over the course of the year. From time to time, elected members slip vague references into their speeches regarding the promotion of linguistic duality in the context of the amended Part VII. Canadian Heritage and Justice Canada barely broached the subject in their presentations to federal institutions. Furthermore, several institutions and managers consider Canadian Heritage to be solely responsible for promoting linguistic duality. In short, more than one year after the adoption of the amended Part VII, the situation is far from ideal. This topic will be examined again in Chapter 3.

[13] This guide was not yet available when this report went to press.

[14] As mentioned on page 53 of this report, 13 of the 16 institutions not required by section 41 of the Act to report to Canadian Heritage have now named coordinators responsible for Part VII or have created a committee to coordinate the institution's efforts in order to meet their obligations.

Budget cuts

In September 2006, following an expenditure review, the federal government announced a series of budget cuts aimed at finding savings of $1 billion in 2006–2007 and in 2007–2008. Among the programs and organizations affected were the Court Challenges Program, Status of Women Canada and the Adult Learning, Literacy and Essential Skills Program.

According to the more than 100 individuals and groups who filed complaints with the Office of the Commissioner, some of these measures could conflict with the spirit and the letter of the amended Part VII.

The end of funding to the Court Challenges Program is one of the measures that continues to worry official language communities the most. The Program is well known for having helped numerous individuals and groups pursue their rights in provincial and federal courts. Many official language communities consider the abolishment of this program unacceptable, particularly in view of the new obligations set forth in Part VII of the Act.

The Fédération des communautés francophones et acadienne du Canada (FCFA) filed a petition in Federal Court to have the government's decision to eliminate funding for the Court Challenges Program declared null and void. The FCFA's petition is supported by its entire membership and by many national associations representing language groups and official language communities.

The FCFA feels that the federal government cut funding to the Court Challenges Program without giving sufficient consideration to the impact this decision would have on the development and vitality of official language minority communities and its own commitments towards linguistic minorities under the *Canadian Charter of Rights and Freedoms* and the Act.

The Commissioner is currently investigating this situation. He requested a moratorium on the cancellation of the Court Challenges Program, but the request was denied.

New compliance issues with Part VII

An analysis of complaints received in the past fiscal year reveals a gap between the expectations of official language communities regarding the implementation of "positive measures" and the requirements of federal institutions when delivering programs.

For example, the wording of some complaints filed by official language communities implies that they expect all funding requests for a language-related project to be approved on the grounds that the institution in question is obligated to take "positive measures." The institutions, in turn, tend to be of the opinion that each funding request must be evaluated within the overall context of their mandate. They see "positive measures" as a way of designing policies or delivering programs that would have been created in any case.

The different points of view of certain members of official language communities and the institutions can also be seen in the consultation process. Over the last few months, the Commissioner has noticed a few complaints have been filed that could be described as "pre-emptive." These cases involve individuals or groups who, anticipating that the government might adopt a new measure, immediately file a complaint with the Commissioner because they have not yet been consulted on the subject. In these situations, the institutions argue that no violation of the Act can occur if no action has officially been taken.

The implementation of "positive measures" will be examined in greater detail in Chapter 3, whereas performance report cards and success stories from selected institutions will be discussed in Chapter 4.

Observations on the implementation of Parts IV and V

Each year, the Commissioner closely examines the performance of federal institutions in their implementation of different parts of the Act. His analysis addresses the implementation of Parts IV (Communications with and Services to the Public) and V (Language of Work) in particular.

Part IV establishes that "any member of the public in Canada has the right to communicate with and to receive available services from federal institutions in accordance with this Part" in either official language. It aims primarily to ensure Canadians can fully exercise their constitutional right to receive services of equal quality in the official language of their choice, in accordance with certain established rules.

Part V, in turn, states "English and French are the languages of work in all federal institutions." Thus, each federal institution that has obligations in terms of language of work must provide its employees with the tools and conditions that enable them to carry out their work in the official language of their choice. The institutions are also responsible for maintaining a workplace conducive to the effective use of both official languages.

Parts IV and V are closely interrelated. For example, by creating a work environment in which both official languages are respected and by employing a bilingual workforce, federal institutions can offer services in both official languages to the public and their staff alike.

Three tendencies emerge from the Commissioner's compliance assurance activities regarding Parts IV and V of the Act: minimalism, incongruity and the paradox of leadership.

Minimalism

Some institutions take a minimalist approach towards their communications with the public and language of work. As such, they flout the letter and spirit of the Act, which are to ensure respect of English and French, the equal status of both languages and the equal rights and privileges as to their use in federal institutions. Within these institutions, administrative convenience and the avoidance of creating precedents seem more important than providing adequate services to the public and employees in bilingual regions.

A striking example of this tendancy is that some institutions, in determining the language requirements of certain positions, seem to set the levels based on regional availability of bilingual personnel rather than on actual job requirements. This practice often results in language requirements that are inadequate for ensuring satisfactory service in both official languages.

In other respects, an analysis of the complaints received during the course of the year reveal prolonged interruptions to the provision of bilingual services in certain federal offices. In these cases, instead of trying to implement permanent solutions to offer services to the public in both official languages, the institutions in question are content to provide the telephone number of another office.

This year, having realized the failure of its universal approach, National Defence adopted a new model under which language requirements are no longer established according to positions, but rather in terms of Canadian Forces units and functions. This federal institution claims that the rationalization of bilingual military resources will allow it to improve its operational capacities and, as a result, better comply with the Act. To implement its system, National Defence had to review the language designations of its military units and functions. It has given itself until 2012 to institute the most important priorities of its *National Defence Official Languages Program Transformation Model.* There are currently too few bilingual military supervisors to create a work environment conducive to the actual use of both official languages in bilingual units. The Commissioner's

investigations, studies and audits reveal that, over an approximately 20-year period, the percentage of bilingual positions occupied by bilingual military personnel has increased only slightly, from 37 to 47 per cent.

A final example: some federal institutions use the services of external suppliers. Often, these third parties are unable to respect the language clauses of their contracts because their employees do not possess adequate language skills. When such situations arise, institutions rarely terminate their contracts, despite being entitled to do so by the language clause. Others fail to put adequate monitoring mechanisms in place or refuse to provide their suppliers with adequate tools under the pretext that they do not want to get involved in their internal affairs.

Some of the regulations and policies of organizations that play an important part in the implementation of the Act may contribute, at least in part, to this minimalism. The Office of the Commissioner has received more than 100 complaints over the years regarding the lack of English or French in the general services provided by some airport authorities. Although these authorities recognize their obligations towards the travelling public (Part IV), they do not consider themselves subject to the same restrictive requirements in their general services (for example, annual reports and announcements in local newspapers for service suppliers). This situation is a result of a lack of clarity in Treasury Board policies.

It is worth noting, once again, that the *Official Languages Regulations—Communications with and Services to the Public* are obsolete.[15] In her 2005–2006 annual report, Commissioner Adam formally recommended that the government revise the regulatory framework and formulated five guiding principles to help the government in its task. Unfortunately, the government's reaction has not lived up to expectations. It should have taken advantage of the opportunity given by the Federal Court judge in *Doucet*, who declared that part of the Regulations are unconstitutional in terms of their application to services offered by the RCMP on the Trans-Canada Highway going through the Amherst region of Nova Scotia. In response to the judgment, the government published proposed amendments in the *Canada Gazette* in October 2006. Since he considered these proposals too minimalist, the Commissioner proposed modifications to the Senate Standing Committee on Official Languages. In addition to supporting the amendments suggested by the Commissioner, the Committee recognized that the Regulations contained weaknesses. The Commissioner congratulates the Senate Committee on the work it has accomplished and intends to return to the subject of reviewing the regulatory framework in the near future.

[15] Note that this is the only regulation that has been adopted under the *Official Languages Act* and that its adoption dates back to 1992.

Language training is also caracterized by minimalism. While some institutions apply the Public Service Human Resources Management Agency of Canada's *Directive on Language Training and Learning Retention* in a relatively satisfactory manner, others do not appear to be making any progress, especially in terms of access to training as part of professional development. Thus, many unilingual employees complain of a lack of training opportunities and tools required to perfect the language skills they need to occupy bilingual positions and advance in their careers in the public service.

Incongruity

Over the past year, the Commissioner has noted the problems of some institutions that, in seeking to respect the spirit of the Act, have found themselves in a somewhat incongruous situation, at least temporarily.

For example, the Commissioner received a series of complaints from employees who were not being supervised in the language of their choice, despite the fact that they occupied bilingual positions in regions designated bilingual. The institution in question made some adjustments by re-evaluating the language requirements of managerial positions and by proceeding to recruit individuals with the required language skills. However, after doing so, unilingual employees from the same institution then filed their own complaints claiming that their rights had been violated under another part of the Act.[16] According to the complaints, these employees claimed they could no longer apply for the managerial jobs in question. Though these complaints were unfounded, the institution was caught in a difficult situation.

The paradox of leadership

Progress on official languages requires leadership. As proof of this, one needs only consider the case of the MERX Internet-based electronic tendering service. The poor quality of the French translations of its invitations to tender has been criticized repeatedly. It took the intervention of parliamentarians and some strongly worded newspaper articles denouncing the situation to make any progress. The departments responsible finally took corrective action by requiring all bid solicitations to be revised by the Translation Bureau.

This story also illustrates how one individual can make all the difference. Thanks to the leadership of the Minister of Public Works and Government Services Canada in recent months, this institution has finally begun to follow through on the numerous recommendations made as a result of several investigations and an audit.

It is unfortunate, however, that 41 years after Lester B. Pearson's language policy was adopted, 37 years after the Act came into effect and 25 years after the *Canadian Charter of Rights and Freedoms* was signed, it still takes a strong leader or bad press to make changes happen. The value of official languages must become entrenched in our collective consciousness and in the organizational culture of federal institutions.

[16] Part VI (Participation of English-Speaking and French-Speaking Canadians)

Official languages in the provinces and territories: Notable events

Like the federal government, the provinces and territories have a profound influence on the development of official language communities and the promotion of linguistic duality. The following are some notable events that took place in the provinces in 2006–2007.

- Under the skillful direction of Nova Scotia's Office of Acadian Affairs, supported by the French-language Services Co-ordinating Committee, the **implementation of the Nova Scotia *French-language Services Act*** has continued to make progress since it came into force in December 2004. Among the notable events that took place during the year following its implementation, the adoption, in December 2006, of a regulation on the provision of services in French is worth highlighting.
- The year 2006 also marked the **20th anniversary of the Ontario *French Language Services Act***. The Ontario government took the opportunity to highlight its support for Francophone communities and to celebrate the social, cultural and economic contributions these communities have made to the province. The Office of Francophone Affairs, together with various partners, including provincial ministries and teaching establishments, organized a series of events and activities at the provincial level. The government took advantage of this anniversary to announce its intention to present a bill to establish an office of the commissioner for services in French.
- At its meeting in October 2006, the **Ministerial Conference on the Canadian Francophonie** (CMFC) published the results of an exhaustive consultation that raised the major difficulties with which the Canadian Francophonie is confronted. In light of these results, the CMFC concluded that reinforcing the Canadian Francophonie depends on the actions aimed at young people and immigrants. The Francophonie's openness towards Francophiles and its exposure on the national and international level are some of the factors that have contributed to its success. The Commissioner is pleased to note the leadership and willingness demonstrated by provinces to contribute to the vitality of the Canadian Francophonie.
- The Government of Quebec, for its part, adopted a **new policy regarding the Canadian Francophonie** in November 2006. This policy resulted from discussions that were held during the Forum de la Francophonie, which took place in Québec in May 2004 and during which the Quebec Minister for Intergovernmental Affairs and Francophones within Canada announced the beginning of a new era in relations between Quebec and Francophones outside Quebec. The following areas are covered by the policy: culture and communications, education, economic development and health, early childhood, youth, immigration, justice, sustainable development and information technologies. This new policy undoubtedly translates the desire of the Government of Quebec to show leadership in reinforcing solidarity between the Francophones of the country.

Conclusion

In summary, the government's will to act—if it exists—has yet to be demonstrated as clearly as one might wish. The government's record in the Official Languages Program is mixed, with progress not living up to official rhetoric. Clearly, the budget cuts announced in September 2006 have planted serious doubts in the Commissioner's mind as to whether the government's commitment is genuine. The government must ensure that the Official Language Program is not a target in the round of budget cuts planned for 2007–2008.

CHAPTER 2

TOWARDS A MORE INTEGRATED MANAGEMENT OF OFFICIAL LANGUAGES

Towards a more integrated management of official languages

Introduction

In Canada, the Official Languages Program is made up of a wide range of activities aimed at providing the entire population with equal opportunities to flourish in their language of choice. Over the years, the federal government has created a number of instruments and structures to manage these activities and meet this goal. Today, the Official Languages Program is equipped with financial resources, guidelines and various measures that govern the organization, planning, management and monitoring of these activities. These activities are carried out with the help of several institutions, ranging from the largest department to the smallest secretariat. Each institution fulfills its own mandate and establishes its own priorities, while at the same time contributing to the government's general objective.

The federal government's choices regarding the management of the Official Languages Program are important to accomplishing the broad vision of Canadian linguistic duality. The government's mission is to obtain optimal performance from all parties working towards the same goal: to advance the equality of English and French in Canada.

This chapter examines these issues. On the whole, it argues for a more uniform management of official languages within the federal public service. In this regard, two main themes are explored. First, an assessment of the implementation of the *Action Plan for Official Languages* over the past year will be presented, and at the same time the importance of continuing this vast government initiative will also be highlighted. Second, official languages governance is addressed through questions about current management mechanisms and recent changes to governance.

Action Plan for Official Languages

Final stage of the Action Plan

This spring, the *Action Plan for Official Languages* enters its fifth and final year of implementation. Launched in March 2003 with an initial budget of $750 million, the Action Plan has three main goals: to enhance the vitality of official language minority communities, to increase bilingualism

in the federal public service and to strengthen Canada's linguistic duality. More than anything, 2006–2007 was marked by the uncertainty surrounding the future of the Plan and the current government's willingness to maintain it.

The federal government's ever-changing commitment

While the Prime Minister and the Minister for Official Languages repeated their commitment to linguistic duality several times, the government has, in fact, directly undermined the Action Plan over the past year. By eliminating the Official Languages Innovation Fund, a key component of the Action Plan, the government has adversely affected the Plan's objectives. This Fund, as mentioned previously, financed projects aimed at improving the quality of services offered by the public service. In addition, the September 2006 budget cuts also indirectly affected the Action Plan, and other cuts made by key departments and agencies had the particular effect of hampering their ability to successfully carry out the Action Plan.

Summary of activities and results

Access to health care in the language of the minority

Health care has without a doubt been the most successful area of the Action Plan. Anglophone and Francophone minority communities declare themselves satisfied with the Plan's results in this area.

On the Francophone side, 17 regional networks[17] created during the first year of the Action Plan have continued their activities on the ground. Some 70 projects were completed in 2006. The networks have strengthened their partnerships with the provinces, and future prospects look very promising. As for Quebec's Anglophone community, which counted more on language training for health professionals and keeping professionals in the regions, results are also encouraging.

Health Canada is currently working on the formative and summative evaluations of initiatives financed under the Action Plan. The findings of the summative evaluation[18] in particular will be used to establish the terms of funding for 2008–2011. For the communities, long-term funding remains an ongoing concern.

The Commissioner recognizes Health Canada's work and sincerely hopes that the networks will continue to receive funding in the coming years. The work carried out by these groups is vital, and results will undoubtedly become more evident in a few years.

Recruitment and retention of immigrants in Francophone minority communities

The *Action Plan for Official Languages* made it possible to organize activities that encourage new immigrants to settle in official language communities. The goal is to tackle the problem of the insufficient number of Francophone immigrants who settle in Francophone minority communities, which is below the demographic percentage of these communities within the population as a whole. Moreover, this problem was discussed in the studies carried out by the Office of the Commissioner.

Citizenship and Immigration Canada can be proud of the work it has accomplished over the last few years. Among its numerous activities, the Department recently launched a strategic plan defining the objectives, through 2011, of the Citizenship and Immigration Canada-Francophone Minority Communities Steering Committee. This plan sets specific targets, for instance, attracting between 8,000 and 10,000 French-speaking immigrants per year to Francophone communities outside of Quebec.

Despite the largely positive assessment of the last few years, certain challenges loom on the horizon. For instance, uncertainty hangs over the funding earmarked for the implementation of the Strategic Plan. Furthermore, the future of special initiatives in Francophone immigration after the end of the Action Plan in 2008 is uncertain. It should also be noted that funding for encouraging immigration to Francophone communities currently comes from budgets earmarked for the integration of all immigrants. Since the

[17] See example of Principle 2, page 34.

[18] Usually carried out in mid-cycle of a program, formative evaluations are intended to quickly determine the improvements that need to be made to the program. In contrast, summative evaluations are undertaken at the end of a program's life cycle in order to establish whether or not the expected results have been achieved and plan the program's future.

Department's budget was increased in the spring of 2006, the Commissioner hopes that initiatives in this area will receive their rightful share so the numerous gaps can be filled. In his opinion, there is a particular need to earmark special funds for immigration to Francophone communities.

Access to justice in both official languages

In regards to access to justice in both official languages, the Action Plan has three main components: implementation of the *Contraventions Act* in the provinces, access to justice in the language of official language communities and the reissuing of legislative documents in the language of the minority.

The Commissioner notes that Justice Canada has carried out its activities in a satisfactory manner with a view to reaching these objectives. The Department maintains that funding for these various activities will be reviewed in 2008, following the summative evaluation. Naturally, the Commissioner hopes the Department's activities will continue and encourages it to increase funding.

Education in the language of the minority

Most of the funding distributed under the Action Plan has gone to education. The goal is to increase registration in official language minority community schools in order to reach a registration rate of 80% of eligible children between now and 2013.[19]

Funding is distributed according to the communities' needs. This can include improving access to minority language community schools, enhancing the quality of school programs, improving professional development for teachers, perfecting teaching tools and Francization programs, setting up school-related community spaces and improving recruitment and retention efforts.

According to data from the Action Plan, the registration rate of eligible children in minority French-language schools was 68% in 2001. In Quebec, the registration rate for eligible children in English-language schools was already 90%. As a result, the measures taken in this province tend to target improvements in programs and learning conditions. That being said, in the area of education, the effects of the Action Plan will not be fully known until later this year, when the provinces and Canadian Heritage submit their evaluation report on the entire country.

Second-language instruction

Another objective of the Action Plan is to double the percentage of young bilingual Canadians between 15 and 19 years of age, in other words, to increase this percentage from 24% to 50% by 2013. Funding is used to improve school programs, increase the number of qualified teachers, facilitate student exchanges and support research.

Some organizations from the education community question the transparency of transfer programs for education and believe that the injection of new funds, while necessary, would in itself be insufficient to renew interest in learning the other official language. Stronger political will and a nation-wide plan are required to obtain the desired results. As is the case with minority-language education, this year, the provinces and Canadian Heritage will report on the progress made in second-language instruction.

Early childhood

Under the education component, the Action Plan also attempts to promote the creation of early childhood programs, particularly in daycare centres and kindergartens in the community.

While the start-up period has been rather long in this area, some organizations have finally been able to obtain funding. This is particularly the case with the Commission nationale des parents francophones, which completed the second phase of its "Partir en français" project. One of the goals of this project is to improve the ability of early childhood education organizations to report on the use of grants. Also, during the last year, $2.8 million was set aside to carry out a pilot project to offer enhanced intervention services for three-year-old children in five minority communities.

[19] See *Action Plan for Official Languages*.

One unfortunate event, however, has affected all early childhood initiatives. Agreements with daycare centres that were concluded with the provinces in 2005 were cancelled in 2006 because the current government preferred to give subsidies directly to parents. Yet the original agreements contained language clauses that intended to make it easier to create daycare centres in official language minority communities.

The Office of the Commissioner would like to see a mechanism developed that would give minority communities access to quality daycare services in their own language that meet their needs.

Literacy training

Literacy training is one of the areas in which the Action Plan made remarkable progress in its first few years. In 2005–2006, the National Literacy Program funded 30 community projects across Canada.

Nonetheless, the federal government's budget cuts in September 2006 reduced the amount available for grants to provincial and regional literacy organizations, and as a result, many were dissolved. By its own admission, the government would like to count on national literacy organizations, but one has to wonder how the Action Plan's objectives can be met without the work of the national and regional organizations.

Economic development and workforce training

Initiatives in economic development and workforce training are the responsibility of Industry Canada and Human Resources and Social Development Canada.

Information provided by Industry Canada on its achievements for the year indicates that its planned activities are continuing. These consist in particular of making community futures development corporations (CFDC) economic advisors aware of the situation in official language communities and increasing the visibility of consultation services in the communities. Some community organizations criticize the Department for mostly emphasizing existing programs. This suggests the Department has not developed a global strategy to promote the economic development of official language communities. However, last year it conducted a large-scale study on the economic situation and economic potential of official language communities. According to the Department, the results of this study will determine its contribution to the Action Plan. It is hoped that this study will also allow Industry Canada to better target its official language community initiatives. As a final note, three language industry groups[20] have continued their activities as a result of investments totalling approximately $5.1 million.

The role of Human Resources and Social Development Canada is to organize workplace internships for young people and manage the Enabling Fund. The number of internships continues to grow, and the Department says it has surpassed the objective of 800 internships that was provided for in the Action Plan. A total of 1,144 internships were offered in 2005–2006, thereby helping many young people make the transition into the workforce.

According to the Office of the Commissioner, the injection of $12 million annually into the Enabling Fund constitutes a "positive measure," since it ensures the financial stability of the economic development networks and allows them to make long-term plans. In addition, the Fund now allows multi-year contribution agreements to be drawn up.

The Commissioner would like to point out the renewal of two important protocol agreements: one between the Government of Canada and the Réseau de développement économique et d'employabilité (RDÉE) Canada, which represents minority Francophone communities; the other between the federal government and the Community Table, an organization that represents the Anglophone community in Quebec. The primary aim of both agreements is to provide leadership and management training in community economic development and human resources development in official language communities.

[20] The Canadian Network of Language Industries, the Language Industry Association and the Language Technology Research Centre.

Language of work and language of service

The Action Plan set aside a considerable sum to improve bilingualism in the federal public service. The three main areas of activity are the following: innovative measures to encourage the use of official languages in the workplace, the strengthening of evaluation and verification skills through the Public Service Centre for Excellence, and the improvement of the public service's bilingual skills.

The termination of the Official Languages Innovation Fund mentioned earlier is a measure that has directly undermined the Action Plan. Originally given a $14 million budget over five years, the Program was cancelled several months before its completion.

As mentioned previously, the Action Plan can also be affected indirectly. For instance, the operating budget of the Public Service Human Resources Management Agency will be significantly cut over the next two years. The Agency only receives $3 million annually to monitor and audit official languages. This amount is clearly insufficient considering the task at hand. Despite these cuts, the Commissioner notes the Agency has made significant progress in some areas, particularly in the creation of the Official Languages Management Dashboard.

The Action Plan also earmarked $36.1 million over three years starting in the 2003–2004 financial year for increasing language training and improving bilingual skills in federal institutions. When this initiative ended in 2006–2007, the Canada School of Public Service received an additional $12.4 million to reduce the waiting lists for language training. It is uncertain, however, whether this objective has been met.

There is another important fact worth mentioning: since 2005 the government has been examining the management of language training in the public service. Since April 1st 2007, the new management model for language training transfers the responsibility for language training to the departments, without giving them any new resources. Under these circumstances, the Commissioner wonders whether the departments are able to manage and finance the training process. The role of the Canada School of Public Service has changed, and it now acts as a language-training broker for full-time language training. The School carries out this function through a national master standing offer with all departments. It is also responsible for forming the groups, training the trainers and ensuring the quality of the training. It continues to offer language training to persons with learning difficulties. Though the government is responsible for determining the parameters of language training management, the Commissioner will closely monitor this file and hopes it will lead to positive results.

The Commissioner is also concerned about a lack of rigour in the Public Service Human Resources Management Agency and the Public Service Commission with regard to the many cases of non-compliance,[21] which indicate that the departments are not always respecting the imperative staffing policy. The Public Service Commission's annual report mentions 892 cases of non-compliance as of April 1, 2005.

There is also pressure to review the imperative staffing policy. It goes without saying that the Commissioner would consider any reversal in this area unacceptable. There seems to be a possibility of doubling the validity period of second language evaluation tests from five to ten years. This approach is worrisome since it leaves the door open to a deterioration in language skills.

[21] Non-compliance occurs when employees do not meet the language requirements of their position at the end of the initial two-year exemption period and have neither received an extension of the exemption period, nor been deployed to a position for which they are fully qualified, nor are granted an exclusion under the *Public Service Official Languages Exclusion Approval Order*.

Beyond 2008

The Action Plan continues to symbolize a hope for revival in official language communities. They see it as a step towards increasing the value of both official languages within a Canadian society that is changing and in constant evolution. They also see it as evidence that the government intends to become even more welcoming and offer all members of the population a good quality of life and equal opportunities to realize their potential.

Despite the initial apathy of certain institutions and occasionally awkward coordination, the Action Plan has achieved much of what it set out to do. It has given the new momentum that was so desperately needed to the official languages policy and has helped offset the budget cuts that affected official language communities in the years prior to the Plan. The Action Plan has also been very useful, if only because it gave a large number of federal institutions the opportunity to rally around a set of common goals and define official language accountability mechanisms.

It is true that the Action Plan's tangible effects on the communities are still unknown. Even though the evaluations currently underway are producing interesting and valid findings, in reality they can only determine the Action Plan's short-term effects and not the repercussions of an initiative carried out to completion.

The Commissioner of Official Languages believes that the federal government must be inspired by the spirit of the Action Plan, one of the main foundations of the Official Languages Program. The Commissioner would like to see a reflection begin this year on the future of official language communities and the role that will be played by the Action Plan's successor.

During this analysis, initial strategies should be refined and new areas explored. The next step for the Action Plan could include, in particular, arts and culture, youth initiatives, and new measures for promoting linguistic duality in Canadian society and second-language learning. Community representatives will have much to say on these subjects, and their aspirations must be taken into account, particularly as they relate to the new obligations set forth in Part VII of the Act. Furthermore, any new initiative should be accompanied by mechanisms that target specific objectives and mobilize institutions and communities to achieve results.

Recommendation 1

The Commissioner recommends that the Minister for Official Languages, in cooperation with the communities, provinces and territories, create an initiative, over the coming year, that will succeed the *Action Plan for Official Languages* and will consolidate what has been gained. During the design process, the federal government must carefully consider expanding the scope of the Action Plan to include, in particular, arts and culture, youth initiatives and new measures for promoting linguistic duality.

Governance of the Official Languages Program

Effective implementation of the Act depends on strong political leadership. However, many instruments and administrative structures that foster real progress in the equality of status of English and French in Canadian society are also necessary.

At the federal level, the Cabinet provides political leadership for the Official Languages Program. The House of Commons, the Senate and their standing committees on official languages also play important monitoring roles and oversee the legislative framework.

In 2001, a minister for official languages was added to this group to monitor the horizontal coordination of official languages. The appointment of a minister was followed by the preparation of the *Action Plan for Official Languages* in 2003. The Action Plan is accompanied by the *Official*

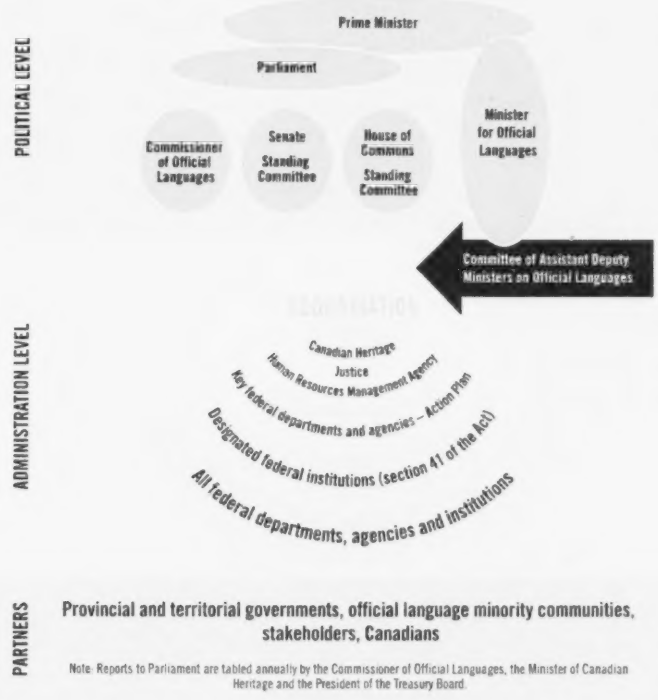
Languages Accountability and Coordination Framework, which defines, among other things, the commitments provided for in Part VII of the Act, along with the responsibilities of each federal institution in this area. It defines the coordination mechanisms for the federal official languages policy and the ensuing initiatives. In carrying out their tasks, departments are also guided by the *Horizontal Results-based Management and Accountability Framework*. This document explains how resources and responsibilities are shared and presents the expected results of Canada's official languages policy.

For several years, the ministers responsible for official languages have also worked with the Committee of Deputy Ministers on Official Languages. This is a forum for senior management from the departments that are most directly involved in official languages and deals with any issues considered to be of common interest.

Between 2001 and 2006, the Minister for Official Languages had the administrative support of the Privy Council Office, through its Official Languages Branch.

Canadian Heritage, for its part, is responsible for coordinating the activities of all institutions and, since 1994, ensures that 32 federal institutions consult official language communities and establish action plans for their vitality and development. This responsibility is the result of the corporate accountability framework for the implementation of sections 41 and 42 of the Act.

Figure 1
Governance for the Official Languages Program*


POLITICAL LEVEL
Prime Minister
Parliament
Commissioner of Official Languages
Senate Standing Committee
House of Commons Standing Committee
Minister for Official Languages
Committee of Assistant Deputy Ministers on Official Languages
ADMINISTRATION LEVEL
Canadian Heritage
Justice
Human Resources Management Agency
Key federal departments and agencies – Action Plan
Designated federal institutions (section 41 of the Act)
All federal departments, agencies and institutions
PARTNERS
Provincial and territorial governments, official language minority communities, stakeholders, Canadians
Note: Reports to Parliament are tabled annually by the Commissioner of Official Languages, the Minister of Canadian Heritage and the President of the Treasury Board.

* *Update on the Implementaton of the* Action Plan for Official Languages*: Midterm Report, p.45*

The official languages governance structure is the product of several years' effort to find better solutions. For instance, history has shown that Canadian Heritage, as a sectoral and not a horizontal department, is not the best suited to issue guidelines to all federal institutions, hence the importance of a central agency to bring about the change in organizational culture needed to implement the Act effectively. Indeed, in her 2005–2006 annual report, Commissioner Adam praised the support given by the Privy Council's administration to the Minister for Official Languages.

Commissioner Fraser, like his predecessors, is very interested in official languages governance, particularly the management structure for official languages and accountability. Do they favour an effective implementation of the Act?

Changes to the governance of official languages

In 2006, the federal government made significant changes to the governance structure for official languages. These changes worry the Commissioner.

In February, the Prime Minister assigned two different roles to the Minister for Official Languages. The first, which the minister's predecessors already carried out, involves coordinating all federal institution's activities related to official languages and overall implementation of the Act. A second role was added: managing the Canadian Heritage Official Languages Support Programs. These programs include support for official language communities.

At first sight, the Commissioner considers the minister's dual responsibility difficult to reconcile. In fact, to adequately fulfil her role as coordinator for all of the federal institutions' official languages activities, she must critically examine these institutions. Yet, if she herself is responsible for the official languages programs of one of these institutions, how can she be objective?

Another change occurred in February 2006: the centre of official languages coordination was transferred from the Privy Council Office to Canadian Heritage. The Commissioner questions the value of such a move. Will this change weaken horizontal governance? Will it have an effect on the relationship between official language community organizations and the federal government? The Privy Council Office is the nerve centre of the federal government, and the reason it was assigned responsibility for official languages was to ensure uniform implementation of the Official Languages Program. Was it wise, then, to remove the Clerk of the Privy Council from official languages—the person who is deputy minister to the Prime Minister, secretary to the Cabinet and head of the public service, all at the same time? The relevance of this administrative reform can also be questioned when considering the objective of implementing Part VII of the Act effectively, which implies a strong commitment and solid leadership from central agencies.

Only time will tell whether this reform will result in a more uniform management of official languages; however, the Minister for Official Languages will no longer be able to count on the Privy Council Office to help gain support from her colleagues. Consequently, the task of ensuring horizontal coordination mechanisms for the implementation of Part VII and the federal government's overall policy for official languages risks becoming even more difficult.

Moreover, the federal government has confirmed that no ministerial committee is examining official language-related issues and that the Minister for Official Languages essentially fulfills her role of coordinator during bilateral meetings or interventions with her colleagues. This differs from the practices of previous years. The Commissioner is concerned about the lack of official language mechanisms and forums for stimulating leadership at the highest levels.

Meanwhile, the Committee of Deputy Ministers on Official Languages has been disbanded. This Committee supported the Clerk of the Privy Council and Secretary to the Cabinet in his leadership role within the federal administration in order to give concrete expression to the objectives of Canada's language policy. While other deputy minister committees may address official languages issues in the future, in reality, the lion's share of the responsibility has been given to a committee of assistant deputy ministers. This committee met for the first time at the end of October 2006, which is nearly a full year after the amendments were made to the Act. Its main role is to monitor the implementation of the Action Plan and to define the strategic directions for all federal institutions. Will this restructuring truly encourage better integration and more rapid progress in all official language-related areas? Serious doubt remains.

Before concluding, it should be noted that the *Official Languages Accountability and Coordination Framework* and the *Horizontal Results-based Management and Accountability Framework* are the cornerstones of the horizontal coordination

of official languages in the federal government. These documents were prepared at a time when the government and its institutions were not required by the Act to take positive measures to ensure the development of official language communities and promote linguistic duality. In light of the new situation, in particular the abolition of the Committee of Deputy Ministers on Official Languages, the reduced role of the Privy Council and the amended Part VII, the federal government must review the *Official Languages Accountability and Coordination Framework*.

Recommendation 2

The Commissioner recommends that the Minister for Official Languages review the *Official Languages Accountability and Coordination Framework*, not only in light of the changes made to official languages governance, but also to better reflect the obligations and responsabilities of federal institutions following the legislative amendments of November 2005.

Conclusion

This chapter examined the management and organization of the Official Languages Program within the federal government.

The *Action Plan for Official Languages*, which is entering its final year, is one of the key instruments that have contributed to achieving substantive equality in language matters. The Action Plan was launched in 2003 primarily to give fresh impetus to official language communities, which all too often bore the brunt of budget cuts in previous years. Despite some difficulties, the Action Plan achieved a certain measure of success. In particular, it allowed a large number of federal institutions to gather around a set of common goals and to define accountability mechanisms regarding official languages. According to the Commissioner, the time has now come to consider the next step: what will succeed the *Action Plan for Official Languages*.

The Commissioner will closely monitor the administrative reform that affected the Official Languages Program in 2006. He remains unconvinced that the changes that were made, particularly the abolition of the Committee of Deputy Ministers on Official Languages, the reduced role of the Privy Council Office and the dual role of the Minister for Official Languages, will produce a better management of the Official Languages Program.

CHAPTER 3

"POSITIVE MEASURES"— A UNIQUE OPPORTUNITY

"Positive measures"—A unique opportunity

Introduction

Just as technical advances increase a company's business opportunities, the notion of "positive measures" opens new horizons for official languages in Canada. This represents a unique opportunity—new perspectives are coming into play.

The concept of "positive measures" comes from the amended Part VII of the *Official Languages Act* (the Act) and rekindles hope for official language minority community vitality. The strengthening of Part VII is designed to translate the federal government's commitment into action. Section 41 describes the obligation as one of "enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development and fostering the full recognition and use of both English and French in Canadian society." As a result, official language communities have the right to expect—and require—the federal government and its institutions to be more proactive in their management of official languages.

Chapter 1 highlighted the gap between the government's rhetoric and action after Part VII was amended. While certain statements made by the Prime Minister and the Minister for Official Languages in public speeches were encouraging, the federal government's lack of determination in implementing the Act was also criticized. Since the amended Part VII was adopted in November 2005, federal institutions have had difficulty understanding their obligations and have been slow to act. The federal government, and the senior public service in particular, must demonstrate, through more concrete action, their commitment to the vitality of official language communities and the promotion of linguistic duality.

Several factors have impeded the implementation of the amended Part VII, including the forming of a new government last year and the significant structural alterations to management of the official languages program.

The apparent lethargy of federal institutions has prompted the Commissioner to examine the issues related to the implementation of the amended Part VII. More specifically, he asked 25 leaders in Canadian society their opinions on the amended Part VII and the promotion of linguistic duality. The leaders that were interviewed included federal public service executives, members of the business and academic communities, and researchers and representatives from the voluntary sector. In the fall of 2006, the Commissioner also invited some 30 individuals from different parts of

the country and various backgrounds to discuss the notion of "positive measures" as it relates to the vitality of linguistic communities. Lastly, he conducted case studies on community vitality.

This chapter will focus on the information gathered during these initiatives. It aims primarily to encourage reflection on the notion of "positive measures." It will begin by examining this concept in the context of the promotion of linguistic duality in Canada. In so doing, the full significance of this part of the Act for contemporary Canadian society and suggested courses of action will be provided. Then, the idea of "positive measures" in terms of official language community vitality and development will be addressed. To conclude, the principles that should guide federal institutions in the implementation of the amended Part VII will be set forth.

"Positive measures" and the promotion of linguistic duality

One of the main objectives of federal language policy is to create an environment that favours linguistic duality; in other words, one that places equal importance on English and French in Canadian society. The federal government, as chief architect of this policy, has committed itself through legislation to taking "positive measures" in order to "foster the full recognition and use of both English and French in Canadian society." How can this seemingly simple, yet elusive, subject be addressed? Generally speaking, linguistic duality can be understood in terms of three complementary visions.

Three visions of linguistic duality in contemporary Canada

Linguistic duality is strongly rooted in ***Canada's historic and contemporary realities***. It has been one of the core values of our country since its inception, and while it has been the subject of heated debates in the past, it is not as emotionally charged as it used to be.

The circumstances thus seem particularly favourable for providing a new impetus to linguistic duality in Canada. Canadians now consider it to be at the centre of their country's history, culture and values. In fact, bilingualism and respect for the rights of linguistic minorities currently enjoy unprecedented support in Canada. According to a recent poll[22] carried out in early 2006, 72% of Canadians personally favour bilingualism in Canada, a 16% increase since 2003. This is remarkable progress, particularly within the Anglophone population, where the level of support has reached 65%. The same survey indicated that young Canadians are even more in favour of bilingualism (80%) than the population as a whole. Support for linguistic equality is strong: 82% of Francophones and 74% of Anglophones believe that the two official language groups should enjoy the same quality of education and are willing to dedicate more resources to the minority in order to meet this objective. Another poll[23] showed 8 out of 10 Canadians have a very (46%) or relatively (35%) favourable opinion of

- Approximately 7 out of 10 Canadians say they personally favour bilingualism for the entire country—an unprecedented level of support.
- Among young Canadians aged 18 to 34, support for bilingualism has reached 80%.
- 9 out of 10 Canadians feel that bilingualism is a factor for success internationally.
- The federal official languages policy is part of Canada's social fabric and, according to 7 out of 10 Canadians, is what defines our country.

[22] Survey entitled "The Evolution of Public Opinion on Official Languages in Canada" conducted by Decima Research Inc. in September 2006. The survey was conducted by telephone in February 2006 from a sample of 2,000 respondents aged 18 and older.

[23] In December 2006, the firm CROP conducted a survey for Société Radio-Canada.

bilingualism in Canada. A similar proportion of Canadians (81%) want Canada to remain bilingual. What measures must be taken to maintain the support of young people for linguistic duality? How can the federal government send the message that linguistic duality is an integral part of Canada's culture and identity, and that the progress of French outside of Quebec is essential for the country's future?

- Approximately 8 out of 10 Canadians say they are strongly (46%) or relatively (35%) in favour of bilingualism in Canada.
- The strong support for bilingualism across the country is primarily due to its growing support among Anglophones outside Quebec.
- The majority (57%) of Canadians feel that the rate of bilingualism outside Quebec (1 in 10 people) is too low; 74% of Francophones agree.
- Approximately 8 out of 10 Canadians, including 94% of Francophones, think that finding a job is a good reason to become bilingual.
- Approximately 7 out of 10 Canadians outside of Quebec feel that French should be a compulsory subject in all primary schools.

Linguistic duality may also be considered from a ***globalization*** and ***human capital*** point of view. In a knowledge society based on technology and openness to cultures all over the world, language skills are clearly an advantage. The linguistic composition of Canada thus helps trade. For 9 out of 10 Canadians, bilingualism is a factor for success in the world today.[24] As such, a Canadian language policy that recognizes the importance of learning both official languages is extremely sensible, if only from a strictly economic standpoint.

With respect to human capital, the promotion of linguistic duality operates in the context of a changing Canada, marked by openness to immigration and cultural diversity. Today, Canada is a multi-faceted country in which more than 100 languages are spoken. According to the Decima Research survey, French remains the second language of choice for non-Francophone Canadians outside of Quebec. For instance, 57% of Albertans place more importance on French as a second language than any other tongue. Alberta's ministry of education has designed new language learning programs for students beginning Grade 4. A large majority of young people choose to study French as a second language over

The three visions of linguistic duality

Linguistic duality as part of globalism, openness to the world, human capital

Linguistic duality in the overall Canadian context, our historical and current national realities

Linguistic duality as a basic building block of citizenship and "Canadianism"

[24] Survey conducted by Decima Research Inc., 2006.

languages such as Cree, German, Japanese, Punjabi, Spanish and Ukrainian.[25] Recently in Quebec, English as a second language became mandatory from Grade 1 onwards. In addition, 62% of Canadians would be more likely to take French courses (English courses in Quebec) if they were more easily accessible.[26] Based on these findings, what measures can the federal government take to make it easier to study both official languages, while at the same time encouraging the acquisition of a third or fourth language?

Linguistic duality can also be seen as a ***fundamental component of Canadian citizenship***. This vision, which is related to the previous two, refers to the way Canadians perceive themselves and are perceived all over the world: a defining characteristic of "Canadian-ness."

Clearly, there is much to be done. One of the challenges is to reconcile varied perceptions and attitudes regarding linguistic duality, since the notion itself may mean something different to an Acadian from New Brunswick than it does to an Anglophone Canadian of Ukrainian descent living in Saskatchewan, for example. The findings from Canada 2020[27] show that, countrywide, 54% of young people have little or no contact with members of the other official language group. Furthermore, parents and students agree that Francophone associations suffer from poor visibility. They admit not being aware of the contribution these groups have made to their region's history. What's more, 68% of young Canadians admit to never having participated in an event organized by a linguistic minority group in their region. How, then, can the image and visibility of official language minority communities be enhanced to better promote their presence? How can stronger bridges be built between the country's two main language groups?

These are some of the key ideas to continue a reflection on the issues surrounding the promotion of linguistic duality. The following section discusses certain areas in which federal institutions can guide their actions in an effort to respect their commitments under Part VII of the Act.

Symbols, images and the expression of Canadian citizenship and identity

Linguistic duality manifests itself first and foremost in the symbols, images and expression of Canadian citizenship and identity. Consequently, the federal institutions that are mandated or have the opportunity to promote Canadian citizenship and identity are particularly well placed to promote the idea of linguistic duality as the foundation of Canadian society. Canadian Heritage and Citizenship and Immigration Canada in particular come to mind. Considering their mandates, these two institutions should see themselves as natural leaders in this area. National Defence, the Canadian Forces, the Royal Canadian Mounted Police, Canada Post and the Royal Canadian Mint could also be considered key players. That said, each federal institution should, at the very least, consider its ceremonies, presentations and national events as opportunities to promote linguistic duality. The 2010 Winter Olympic Games are a prime example of one such opportunity in the coming years.

Reflecting linguistic duality abroad

Canadians place great importance on the image and prestige their country enjoys abroad, and nations who aspire to create just and tolerant societies model themselves on Canada. It only seems wise, then, to show the world an image of the country that accurately reflects Canadian linguistic duality. In this respect, certain institutions, such as Passport Canada, the Canada Border Services Agency, Foreign Affairs and International Trade Canada, Citizenship and Immigration Canada and Air Canada, must set the tone.

Seeing each other, getting to know each other and learning from each other through institutions

Many Canadian institutions are structured around one official language or the other. A perfect example of this is the CBC and Société Radio-Canada, whose English- and French-language components essentially operate as separate

[25] "French Culture and Learning French as a Second Language: Perceptions of the Saskatchewan Public", a study conducted by the NRG Research Group for the Office of the Commissioner of Official Languages, January 2007, www.ocol-clo.gc.ca/archives/sst_es/2007/saskatchewan/perceptions_e.htm.

[26] Survey conducted by Decima Research Inc., 2006.

[27] "My Ideal Canada in 2020—The Views and Voices of Young Canadians," a syndicated study of Canadian youth aged 16–30 conducted by FH Canada Research in 2006.

entities in terms of their programming. While such an arrangement is justified, even necessary, it does not always allow Canadians from different linguistic communities to see each other, understand each other and learn about each other's reality. This is not only true for television, but also for radio, literature, film, theatre and the visual arts. Canada can and must do more to encourage this type of exchange and learning. This is not simply a matter of translating documents or offering interpretation services; it requires an investment in content that reflects the experience and reality of the other official language community. Among the institutions that can play a more significant role in this respect are Canadian Heritage, the Canada Council for the Arts, the National Film Board of Canada, national museums, the Canadian Radio-television and Telecommunications Commission and the National Gallery of Canada.

Linguistic duality and diversity

The contribution of immigrants from all parts of the world makes Canada a richer and more diverse country. New Canadians must be better informed of the pre-eminent position of linguistic duality in contemporary society and the history of Canada. They must also recognize that Canada's linguistic duality is the product of a long tradition of accommodation, generosity and acceptance of differences—the same tradition that has made them Canadians today. The federal government must do more to transmit these messages to new Canadians and strenghten its efforts by facilitating the learning and use of official languages.

In her 2005–2006 annual report, Commissioner Adam called on the government to act on this matter. In particular, she urged the Minister for Official Languages to initiate a national dialogue on linguistic duality and diversity.

Development of skills and human resources, inter-provincial mobility and Canadian economic unity

As mentioned previously, the knowledge of several languages is undeniably a competitive advantage in the new economy. Therefore, the federal government, working in conjunction with the provinces, territories and other partners, can only win by promoting and supporting the acquisition of a second language. Second-language learning can also encourage internal trade by facilitating labour mobility. This responsibility belongs first and foremost to Human Resources and Social Development Canada (HRSDC) and Industry Canada. HRSDC in particular could promote second language acquisition as part of its skills strategy, programs and labour market development agreements. In addition, young Canadians must be given more opportunities to improve their second language skills as they prepare to enter the workforce.

Promotion of linguistic duality within the federal government

The equality of status of English and French in Canadian society would appear more attainable if the federal government demonstrated this reality internally. A workplace that emphasizes both official languages will inevitably result in higher quality services to the Canadian public and official language communities. Canadians' expectations in terms of bilingualism in federal institutions are clear: according to a recent CROP/Radio-Canada survey, 8 out of 10 Canadians feel that members of the senior public service should be bilingual.

Fostering the use of both official languages in the workplace also means actively promoting the values at the heart of the public service—values based on respect and substantive equality. The Official Languages Good Practices Forum of the Public Service Human Resources Management Agency of Canada is a good example of the promotion of linguistic

duality within the federal government. The Forum brings official language champions together with those responsible for official languages in the institutions subject to the Act. The goal is to disseminate best practices as they relate to communications with the public, service delivery and the promotion of official languages.

Essential contributions from other stakeholders

On the whole, the federal government could do more to encourage contributions from other important stakeholders, including provincial governments, municipalities, the private sector, universities and volunteer organizations. While taking into account the capacities of each stakeholder, the federal government could urge them to make a greater effort. In particular, the government could provide easier access to second-language training at the elementary, secondary and post-secondary levels. It must encourage and facilitate the use of both official languages in the voluntary sector and increase opportunities for dialogue and discussion, particularly among young people, to foster a better understanding of our reality. Lastly, the federal government must use the Internet and new technologies to their full potential.

The City of Ottawa and the National Capital Commission are among the key players in this new era of official languages in Canada. These institutions must project a faithful image of Canadian linguistic duality to the region's residents and the hundreds of thousands of visitors from Canada and abroad who visit each year. They are a vital player in the implementation of the Act in the region and in ensuring that the national capital fully assumes its real, symbolic role as capital for all Canadians, be they English-speaking, French-speaking, bilingual or unilingual. On this same subject, the possibility that a funding agreement between the federal government and the City of Ottawa may not be renewed worries the Commissioner. He encourages the province of Ontario to join Canadian Heritage and the City of Ottawa in ensuring a sustainable development of services in French for the city. The Commissioner intends to work closely with the new leaders of the city's institutions so that the work begun in recent years can continue.

"Positive measures" and community vitality

The objective of the amended Part VII is to better define the federal government's official languages obligations. It calls on all federal institutions to not only review and act on promoting linguistic duality in Canada, but also contribute to the vitality of official language communities. Both the strength and the weakness of these changes stem from the fact that the scope of the amendment awaits definition. The amended Part VII requires a new dialogue. Over the course of the year, the Commissioner has sought to better understand the communities' perspectives on this matter.

While the term "positive measure" is not defined in the Act, the Commissioner considers it to mean an action taken by the government or institutions to **produce an actual result**. Positive measures could include actions focused on official language minority communities with a view to enhancing true equality of status between English and French in Canadian society.

What are the communities saying?

During a forum held in the fall of 2006, the Office of the Commissioner took the pulse of the communities regarding the impact the amended Act would have on their vitality. In an attempt to determine how federal institutions could contribute to their development through "positive measures," the discussion mainly revolved around examples related to normal management cycles within federal institutions.

First and foremost, communities want to participate in the planning of initiatives so they can help federal institutions make better decisions that corresponded to their needs and priorities. This requires collaboration and cooperation mechanisms as well as access to reliable data. This subject will be addressed again later in the report.

The communities also expect targeted tools, in other words, policies and programs that are perfectly adapted to their particular circumstances.

The administrative practices and structures of federal institutions are another key issue for communities. Heavy-handed management practices impede access to programs and hinder results. Communities therefore recommend adopting managerial approaches with greater administrative flexibility.

Lastly, good management makes evaluation a top priority. The communities consulted over the past year are interested in measuring the success of actions taken to enhance their vitality. This type of activity falls under an approach aimed at continuous improvement.

Community vitality indicators: Lessons learned over the year

Over the past year, the Commissioner conducted a case study on vitality indicators[28] in three urban Francophone communities: Winnipeg, Sudbury and Halifax. The study sought to highlight the success factors for community vitality and reveal useful and worthwhile vitality indicators in four areas of activity: community governance and leadership, government services, immigration and health.

Communities were able to clarify the results they hope to achieve in each area of activity. At the same time, the study also improved their ability to plan their development and evaluate the results of their actions.

The case studies can eventually be used by other official language communities interested in community evaluation. They are also a source of information for governments and public servants that implement public policies for communities in a given area.

The case studies showed that official language communities recognize the importance of participating in—and even leading—community evaluations. Nevertheless, they are aware they need to improve their evaluation skills to do so. Moreover, although they are inclined to get more actively involved in community evaluations, current community stakeholders do not necessarily have the time or resources to carry out such initiatives. Federal institutions can thus play a role by helping these communities improve their evaluation skills. They can also implement shared governance mechanisms so that communities can participate in deciding which evaluation indicators and methods to use.

[28] The publication of this study is scheduled for December 2007.

Lastly, the case studies showed that the information needed to evaluate community vitality is often difficult to obtain. Keeping in mind the specific development needs of official language communities, governments must continue to support a wider selection of data sources that take into account Canada's language variable, particularly at the local community level. As such, the post-census survey currently underway should be repeated at regular intervals to obtain chronological data on the communities.

Translating government commitments into action: Principles for implementing the amended Part VII

Several principles have taken shape from the discussion in the preceding section that will help the federal government better understand the notion of "positive measures." The Commissioner considers it useful to list them, with examples, in the pages that follow.

These principles can serve as a backdrop for guiding the actions of federal institutions regarding Part VII. They form the basis of "positive measures" and are consistant with the purpose of the Act, which is to foster the equal status of English and French in Canadian society and enhance the vitality of official language communities. These principles stem from two recommendations issued in last year's annual report regarding "positive measures"—recommendations that have not yet been the subject of any real action.

Principle 1—A proactive and systematic approach and a targeted treatment (Part VII "reflex")

"Positive measures" require a proactive approach, a reflex integrated into a federal institution's various decision-making processes to ensure that a program, policy or decision takes into account Part VII of the Act when it is designed or implemented. This Part VII "reflex" is then integrated into the institution's organizational culture, where public service leadership can ensure the issue is systematically taken into account. This principle also includes the idea of "asymmetry," meaning that it acknowledges the uniqueness of the issues, the challenges from one milieu to the next and the differences between the minority and the majority. Under certain circumstances, it can also give rise to differential treatment. Institutions could, for instance, adapt their criteria, create targeted programs or establish designated funding envelopes to take into account the particular circumstances and aspirations of official language communities in Canada's different regions. A "positive measure" is always a concrete action designed to yield results.

Industry Canada's "Section 41 lens" is an excellent example of Principle 1. The institution is currently developing a tool that will allow managers to determine the extent to which their policies and programs are adapted to the situation and interests of official language communities.

Over the last few years, Citizenship and Immigration Canada (CIC) has taken several "positive measures" to enhance the vitality of Francophone communities. First, the Department amended the *Immigration and Refugee Protection Act* in 2002. One of the objectives of this amendment was to ensure that immigration promotes linguistic duality and the vitality of Francophone minority communities. Then, CIC, in cooperation with community organizations, created a steering committee whose mandate is to promote immigration to Francophone minority areas. This approach encourages communities to participate directly in making decisions on strategic directions in the area of immigration. In September 2006, CIC launched the *Strategic Plan to Foster Immigration to Francophone Minority Communities*, which determines the challenges and strategies for the next five years. In the meantime, CIC plans to improve the way it collects linguistic data on immigrants and the level of detail of this data so it can be used as a reliable barometer of success. As a result, CIC has put a series of "positive measures" into place that should lead to noticeable progress in terms of immigration to Francophone minority areas.

Canadian Heritage, in turn, has created a guide to help managers prepare memoranda to Cabinet that take official languages into account, particularly the implementation of Part VII.

Lastly, the inclusion of language clauses in agreements with the provinces and territories in areas under their jurisdiction is in itself a good example of "positive measures," since it helps promote linguistic duality in other levels of government.

Principle 2—The active participation of Canadians

A "positive measure" for linguistic duality in Canada consists first of a participatory approach that calls on all parties to work together in an atmosphere of mutual trust and synergy. This approach involves all stakeholders and encourages decisions to be more integrated so they can lead to courses of action and solutions that better meet the needs of the community and maximize results. Consensus is fostered among the participants in relation to priorities, goals, means, deadlines and resources. Ultimately, this principle assumes a continued, transparent dialogue between interested parties and federal institutions as well as the creation of permanent consultation and partnership mechanisms.

For instance, the federal government could create tripartite partnerships with community representatives and provincial governments to better define community needs. Partners would thus have an opportunity to jointly establish short- and long-term objectives, with a view to supporting the vitality of official language communities. Many institutions can use the example set by Service Canada in Saskatchewan. It recently worked with Saskatchewan's Francophone community and the provincial government to choose the best location in the province for a permanent bilingual service centre.

An example of Principle 2

Health Canada set up advisory committees to strengthen its ties with official language minority communities, thus acknowledging their unique situation and their need for targeted treatment. This is a striking example of a participatory approach aimed at finding solutions adapted to the specific reality of official language minority communities.

In the short term, this process gave rise to the creation of Société santé en français. The initiative also led to the creation of 17 regional, provincial and territorial networks that now work to enlist the cooperation of various partners, with a view to improving access to health services in French for minority communities. Evaluations are currently under way to determine the short- and medium-term results.

Principle 3—A continuous process for improving the programs and policies related to Part VII

This principle highlights the importance of looking critically at intervention models. A federal institution gives concrete expression to the notion of "positive measures" when it chooses to evaluate and improve its policies and programs related to Part VII in a proactive and systematic manner. Such a commitment involves the existence of rigorous research and evaluation methods based on adapted measurement tools and indicators. It therefore encourages a decision-making process based on reliable data. Moreover, a commitment to constant improvement leads to more appropriate and effective approaches and responses.

Canadian Heritage honoured this principle when it created tools to facilitate data collection within the institutions targeted by the *Action Plan for Official Languages*. While they are not a cure-all, these tools were used to prepare the *Midterm Report*. The Department was also careful to choose indicators that will serve in the preparation of the final report on the Action Plan.

An example of Principle 3

In 2005, Statistics Canada, the Privy Council Office and Canadian Heritage carried out an in-depth survey on the vitality of official language communities.

The **post-census survey** is considered essential for gathering data on the communities and helping departments that received funding under the *Action Plan for Official Languages* assess their initiatives. In the fall of 2006, Statistics Canada conducted a telephone survey of some 50,000 people in Anglophone and Francophone minority communities.

The survey collected data on language habits and behaviours in many fields not dealt with by the census (Internet, reading habits, radio, etc.). The objective was to carry out analysis at an unprecedented depth in key areas of community development (exogamy, family life, sense of belonging, access to various public services, relationship with majority and minority languages, etc.).[29]

[29] The publication of this survey is scheduled for the end of 2007.

- making linguistic duality a priority
- exercising solid political leadership
- ensuring the continued commitment of upper management in the federal administration
- strengthening governance mechanisms
- adopting a participatory approach towards relations with communities and other interested parties
- implementing programs and policies based on reliable data and an in-depth knowledge of the minority environment
- adopting a government-wide positive measures program by making each federal institution accountable within its sphere of activity
- evaluating the impact of measures that have been taken
- adopting an effective internal and external communications plan

Mechanisms for facilitating the implementation of the amended Part VII

Accountability mechanisms

Part of the Commissioner's mandate is to closely examine the federal government's official languages accountability mechanisms.

Under the *1994 Accountability Framework*, the Minister of Canadian Heritage must, in her annual report on official languages, report to Parliament on the implementation of the government's commitment. She does this by using the performance report cards of the 32 federal institutions that are subject to accountability requirements under Part VII.

An October 2005 evaluation of the role of Canadian Heritage in the implementation of the Act points out that the annual report submitted to Parliament by Canadian Heritage does not contain enough information to encourage accountability. For the Auditor General, "... effective accountability is not just reporting performance; it also requires review, including appropriate corrective actions and consequences for individuals."[30]

In the 2005–2006 annual report, Commissioner Adam encouraged Canadian Heritage to fully assume its role as coordinator by supervising federal institutions more closely in the effective implementation of Part VII of the Act. She also hoped to receive an annual report from Canadian Heritage that provided an overall assessment of the results stemming from the implementation.

Canadian Heritage and other federal institutions have a shared responsibility towards accountability. Each federal institution is responsible for fulfilling its obligations under Part VII. However, since it falls upon Canadian Heritage to report to Parliament on the implementation of government commitments, this department should also be responsible for defining, in cooperation with the institutions and organizations accountable to it, an appropriate accountability framework and establish effective mechanisms to provide Parliament with useful performance information.

In short, Canadian Heritage's responsibility in terms of accountability is not limited to collating the reports of other institutions and organizations. This department must be more critical of the performance of federal institutions and must emphasize the importance of results.

In December 2005, the Clerk of the Privy Council wrote to federal institutions to encourage them to examine the extent to which they carried out their mandates regarding

[30] Report of the Auditor General of Canada, Chapter 9, December 2002.

the amended Part VII and to make the necessary improvements. Since then, Canadian Heritage has not drawn up a single new expectation or requirement for the institutions, which, to this day, have not had to produce an action plan. The Commissioner expects the government to clearly formulate the expectations for all institutions and lay out requirements on how they must account for their achievements.

Recommendation 3

The Commissioner recommends that the Minister for Official Languages ensure Canadian Heritage review its accountability mechanisms for the implementation of sections 41 and 42 of the Act in order to place more emphasis on results.

Process for designating institutions that have a significant impact on community vitality

In 1994, the federal government designated 26 institutions as having the most significant impact on the development of official language communities and the promotion of English and French. Canadian Heritage supervises the institutions named in the *1994 Accountability Framework* and is authorized to recommend that other institutions be added to the list, based on new needs of the communities.

Only the institutions subject to the Accountability Framework are required to develop and submit an action plan to Canadian Heritage regarding implementation of section 41, along with a report on results. Until now, Canadian Heritage favoured a step-by-step approach. Over a period of more than ten years, the number of institutions on the list has gone from 26 to 32, a modest increase.

The amended Part VII obligates all federal institutions to equip themselves with the appropriate resources and methods to account for the Act and recent jurisprudence in their policies, practices, programs, guidelines and priorities. In light of the amended Part VII, Canadian Heritage must now review the list of designated federal institutions to determine whether additions are to be made.

By the same token, the Department must clarify the process used to determine designated institutions—a process that lacks transparency at this time. The way in which priorities are established and communities are consulted is unclear. The Department could develop, in cooperation with the communities, a selection grid that takes into account the likely impact of each institution or organization on the advancement on the equality of status of English and French. Either way, the Department must do a better job of informing the federal institutions and communities of the chosen procedure.

The government must also acknowledge that the implementation of the new Part VII must be fully carried out both in Ottawa and in the regions. Federal councils in particular must be given the means to assume their role as champion in every part of the country. They are the key players with which communities want to work. Unfortunately, the cancellation of the Regional Partnership Fund last year is a step in the opposite direction.

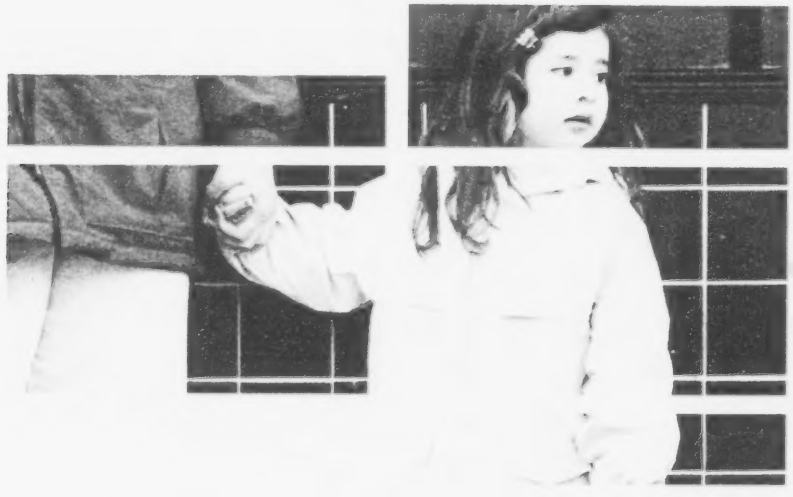
Recommendation 4

The Commissioner recommends that the Minister for Official Languages ensure Canadian Heritage take a more transparent approach in the implementation of section 41 of the Act when determining the institutions that have the most significant impact on communities and on the promotion of linguistic duality.

To summarize, a more comprehensive and specific approach is needed to clarify expectations and possible implications following the amendements to the Act and to ensure its spirit is understood and respected.

Conclusion

By adopting the amendments to Part VII of the Act, Parliament's message to the federal administration was that it wants linguistic duality to remain one of Canada's fundamental values. It clearly expressed its desire to see the federal government act in an even more determined and decisive manner to enhance the vitality and development of official language communities and promote linguistic duality. This obligation to act is designed to accelerate the implementation of Part VII. All of these elements have converged to ensure the federal government demonstrates through its actions that it is committed to linguistic duality and the development of official language minority communities in Canada.



CHAPTER 4

PERFORMANCE REPORT CARDS AND SUCCESS STORIES

Performance report cards and success stories

Introduction

One of the Commissioner of Official Languages' many responsibilities is to closely monitor the ways in which federal institutions comply with the *Official Languages Act* (the Act). This chapter, as well as the next, provides an account of the monitoring activities that were carried out over the last year.

The chapter will first examine performance report cards, which are a review of the overall performance of 37 institutions subject to the Act.[31] Each institution's performance report card is available on the Office of the Commissioner of Official Languages web site, www.ocol-clo.gc.ca. Evaluated within the framework designed for this purpose, these report cards reveal the strengths and weaknesses of each institution.

The chapter will then continue with a presentation of the top success stories. This year, the Commissioner collected information on many success stories within federal departments and organizations. It is his hope that all federal institutions will find inspiration in these stories.

Performance report cards

Methodology

Each institution's performance was measured against 13 basic criteria grouped under 5 factors: program management, service to the public, language of work, equitable participation and advancement of English and French. Each of the 13 basic criteria has been assigned a relative weighting in order to calculate an overall grade for each institution. A detailed rating guide describes the methodology used by analysts to rate the institutions.[32]

Many different sources were used to carry out the analyses needed for the report cards: interviews, documents, observations on service quality, surveys, statistical data, recommendations made by the Commissioner and consultations with colleagues who performed investigations and audits.

[31] In Canada, nearly 200 institutions are subject to the Act; the Office of the Commissioner of Official Languages has chosen to evaluate 37 of them. An attempt has been made to select institutions that are representative of a wide range of departmental realities, in terms of the government's main responsibilities (or major portfolios), their relationship with the Treasury Board Secretariat (separate employers or institutions for which the Treasury Board Secretariat is the employer) and their size. Central agencies responsible for official languages have been excluded, since it is impossible to measure their performance according to the same evaluation criteria used for other institutions.

[32] This rating guide is available on the Office of the Commissioner of Official Languages web site, www.ocol-clo.gc.ca.

Greater emphasis on results

The evaluation framework was modified this year to place more emphasis on the institutions' results. For instance, the number of observations made in the field doubled in comparison to the previous year.

The report cards took into account language of work data from the 2005 Public Service Employee Survey[33] and a survey requested by the Commissioner last year.[34]

To emphasize results, the Commissioner took into consideration formal recommendations made during his investigations and audits to create a list of institutions that have specific problems complying with the Act. These institutions lost points on their performance report cards. The penalty accounted for 5% of the overall grade, or 2% if the institution made considerable progress in resolving the issue.

Amendments to the *Official Languages Act* regarding the advancement of English and French

The evaluation framework was also revised to take into account the amendments made to Part VII of the Act in November 2005.[35] Designated institutions,[36] accustomed to preparing action plans and reporting to Canadian Heritage on Part VII, were subject to stricter requirements than other institutions not accountable in this respect. For the latter institutions, the Commissioner primarily sought to determine the extent to which they were aware of the legislative changes, whether they had considered what impact the changes would have on their organization and whether they had made any preparations to comply with the changes. The Commissioner considers this two-speed approach a temporary measure.

Presentation of results

The results facilitate comparison among institutions with similar characteristics. As such, the 37 institutions in question are grouped into three portfolios: economy; transport and security; and social, cultural and other.

A	Exemplary
B	Good
C	Fair
D	Poor
E	Very poor

To make the results easier to read, a subtotal now appears for each factor that has been evaluated. When an institution has been penalized because of a specific issue with compliance, an asterisk appears on the subtotal line of the factor in question.[37]

As in past annual reports, the evaluation criteria and their relative weights appear in the left-hand column. The overall grade is a total of the results obtained for all the evaluated components.

[33] This survey, carried out by Statistics Canada for the Public Service Human Resources Management Agency of Canada (PSHRMAC), included five questions on language of work. A list of these questions can be found on the language of work section in this chapter. It should be noted that this survey did not involve employees from separate employers, i.e., institutions of which the Treasury Board Secretariat is not the employer.

[34] The Office of the Commissioner requested this survey from Statistics Canada to round out the data from the 2005 PSHRMAC survey. Statistics Canada asked employees from 16 separate employers the same five questions regarding language of work that appeared in the 2005 Public Service Employee Survey.

[35] Since November 2005, all federal institutions are required to take positive measures to enhance the development of official language communities and promote the equal status and use of English and French. The Office of the Commissioner was careful to consult official language community representatives prior to making any changes to the evaluation framework. After strengthening the evaluation criteria, the Office of the Commissioner communicated them to the institutions concerned.

[36] Thirty-two federal departments and organizations are named in the *1994 Accountability Framework* regarding the implementation of sections 41 and 42 of the Act as being key organizations that have a significant impact on the development of official language communities.

[37] For more information on institutions with specific compliance issues, see Chapter 5, page 61.

Portfolio: Economy

* Penalty (2%)
** Penalty (5%)

	Indian and Northern Affairs Canada	Agriculture and Agri-Food	Business Development Bank	Canadian Tourism Commission	Canada Economic Development for the Regions of Quebec	Western Economic Diversification	Mortgage & Housing Corporation	Industry Canada	Fisheries and Oceans Canada	Canada Post	Atlantic Canada Opportunities	Revenue Canada	Public Works
A. Management (15%)													
a) An accountability framework, an action plan and accountability mechanisms are in place (5%)	C	B	B	A	A	C	A	A	B	B	B	A	A
b) Visibility of official languages in the organization (5%)	C	C	B	B	A	A	B	A	B	A	B	B	A
c) Complaints (5%)	B	C	A	B	A	C	B	B	A	A	A	A	B
Subtotal	**C**	**C**	**B**	**B**	**A**	**B**	**B**	**A**	**B**	**A**	**B**	**A**	**A**
B. Service to the Public—Part IV (25%)													
a) Bilingual services advertised to the public and sufficient bilingual staff (3%)	B	B	D	C	B	C	B	B	B	C	B	C	B
b) Findings on active offer and service delivery (15%)	D	E	D	B	B	C	C	D	D	D	C	C	D
c) Service agreements delivered by third parties or in partnership provide for the delivery of bilingual services (2%)	C	C	A	D	B	B	C	B	C	A	B	C	C
d) Policy on service to the public and bilingual services quality monitoring (5%)	C	C	B	C	B	B	C	C	B	A	C	A	C
Subtotal	**D**	**D**	**C**	****C**	**B**	**C**	**C**	**C**	**C**	****D**	**C**	**B**	**C**
C. Language of Work—Part V (25%)													
a) Language of work policy and adequate bilingual supervision (12.5%)	B	B	B	B	B	C	B	B	B	C	B	B	B
b) Use of each official language in the workplace (12.5%)	C	C	C	D	B	C	C	C	B	C	B	C	C
Subtotal	**C**	**C**	**C**	**C**	**B**	**C**	**B**	**B**	**B**	**C**	**B**	**B**	**B**
D. Equitable Participation—Part VI (10%)													
a) Percentage of Francophone participation throughout Canada (5%)	A	A	B	A	B	A	A	B	A	A	A	A	B
b) Percentage of Anglophone participation in Quebec (5%)	D	C	A	N/A[1]	E	N/A[1]	C	B	D	C	N/A[1]	C	D
Subtotal	**B**	**B**	**B**	**A**	**C**	**A**	**B**	**B**	**B**	**B**	**A**	**B**	**C**
E. Advancement of English and French—Part VII (25%)													
a) Strategic planning and the development of policies and programs take into account the development of official language minority communities (12.5%)	C	B	B	B	B	A	B	B	B	B	B	B	B
b) Strategic planning and the development of policies and programs take into account the promotion of linguistic duality (12.5%)	C	C	B	B	B	B	B	B	B	A	B	C	C
Subtotal	**C**	**B**	**B**	**B**	**B**	**B**	**B**	**B**	**B**	**A**	**B**	**B**	**B**
OVERALL RATING	**C**	**C**	**C**	**C**	**B**	**C**	**B**	**B**	**C**	**C**	**B**	**B**	**C**

[1] No staff in Quebec (excluding NCR).

Portfolio: Transport and security

* Penalty (2%)
** Penalty (5%)

	Halifax Robert L. Stanfield Airport	Ottawa Macdonald-Cartier Airport	Food Inspection Agency	Border Services	Environment Canada	Canadian Forces	RCMP	NAV CANADA	Passport Canada	Correctional Service	Canadian Air Transport Security Authority	Transport Canada	VIA Rail
A. Management (15%)													
a) An accountability framework, an action plan and accountability mechanisms are in place (5%)	D	B	A	A	B	A	C	B	D	C	A	A	A
b) Visibility of official languages in the organization (5%)	D	B	B	A	C	B	C	C	C	C	A	B	C
c) Complaints (5%)	C	A	A	A	B	B	B	B	A	B	A	B	B
Subtotal	**D**	**B**	**A**	**A**	**B**	**B**	**C**	**B**	**C**	**C**	**A**	**B**	**B**
B. Service to the Public—Part IV (25%)													
a) Bilingual services advertised to the public and sufficient bilingual staff (3%)	D	D	B	B	B	D	B	C	B	B	C	B	D
b) Findings on active offer and service delivery (15%)	D	C	E	C	C	D	E	C	B	E	C	D	C
c) Service agreements delivered by third parties or in partnership provide for the delivery of bilingual services (2%)	C	A	B	C	B	B	C	C	A	E	B	B	C
d) Policy on service to the public and bilingual services quality monitoring (5%)	D	B	A	A	C	D	C	B	B	C	B	B	B
Subtotal	**D**	**C**	**C**	***C**	**C**	**D**	**D**	**C**	**B**	**D**	***C**	**C**	**C**
C. Language of Work—Part V (25%)													
a) Language of work policy and adequate bilingual supervision (12.5%)	N/A[1]	B	B	B	B	D	B	D	B	B	C	B	C
b) Use of each official language in the workplace (12.5%)	N/A[1]	C	C	C	D	C	E	D	C	C	C	B	D
Subtotal	**N/A[1]**	**C**	**B**	**B**	**C**	****E**	**D**	**D**	**C**	**C**	**C**	**B**	**D**
D. Equitable Participation—Part VI (10%)													
a) Percentage of Francophone participation throughout Canada (5%)	A	A	A	A	A	A	A	A	B	A	A	A	A
b) Percentage of Anglophone participation in Quebec (5%)	N/A[2]	N/A[2]	D	A	A	N/A[2]	A	B	B	D	N/A[2]	A	A
Subtotal	**A**	**A**	**B**	**A**	**A**	**A**	**A**	**B**	**B**	**B**	**A**	**A**	**A**
E. Advancement of English and French—Part VII (25%)													
a) Strategic planning and the development of policies and programs take into account the development of official language minority communities (12.5%)	N/A[3]	N/A[3]	B	B	D	C	C	D	D	D	C	B	C
b) Strategic planning and the development of policies and programs take into account the promotion of linguistic duality (12.5%)	N/A[3]	N/A[3]	B	B	D	D	C	C	E	D	B	B	C
Subtotal	**N/A[3]**	**N/A[3]**	**B**	**B**	**D**	**C**	**C**	**D**	**D**	**D**	**C**	**B**	**C**
OVERALL RATING	**D**	**B**	**C**	**B**	**C**	**D**	**D**	**D**	**C**	**D**	**C**	**B**	**C**

[1] Part V of the Act does not apply.
[2] No staff in Quebec (excluding NCR).
[3] Not subject to Part VII of the Act.

Portfolio: Social, cultural and others

* Penalty (2%)
** Penalty (5%)

	Public Health Agency	CBC/Radio-Canada	National Arts Centre	Citizenship and Immigration	National Capital Commission	Canadian Museum of Civilization	National Film Board	Parks Canada	Health Canada	Service Canada	Statistics Canada
A. Management (15%)											
a) An accountability framework, an action plan and accountability mechanisms are in place (5%)	D	B	D	A	B	C	B	B	A	B	A
b) Visibility of official languages in the organization (5%)	B	B	B	A	A	A	A	A	A	B	B
c) Complaints (5%)	C	B	A	A	A	A	A	B	B	A	A
Subtotal	**C**	**B**	**B**	**A**	**A**	**B**	**A**	**B**	**A**	**B**	**A**
B. Service to the Public—Part IV (25%)											
a) Bilingual services advertised to the public and sufficient bilingual staff (3%)	B	D	B	B	A	B	A	B	B	B	B
b) Findings on active offer and service delivery (15%)	C	E	B	C	A	A	D	C	D	D	B
c) Service agreements delivered by third parties or in partnership provide for the delivery of bilingual services (2%)	C	C	B	B	A	B	C	B	C	B	A
d) Policy on service to the public and bilingual services quality monitoring (5%)	B	B	B	B	A	A	C	B	C	B	B
Subtotal	**C**	**D**	**B**	**B**	**A**	**A**	**C**	**C**	**C**	**C**	**B**
C. Language of Work—Part V (25%)											
a) Language of work policy and adequate bilingual supervision (12.5%)	C	B	A	B	B	B	A	B	B	B	B
b) Use of each official language in the workplace (12.5%)	D	B	C	C	B	B	C	C	C	C	B
Subtotal	**C**	**B**	**B**	**C**	**B**	**B**	**B**	**B**	**C**	**B**	**B**
D. Equitable Participation—Part VI (10%)											
a) Percentage of Francophone participation throughout Canada (5%)	A	A	A	A	B	B	B	A	A	A	B
b) Percentage of Anglophone participation in Quebec (5%)	N/A[1]	C	N/A[2]	A	N/A[2]	N/A[2]	A	E	D	D	B
Subtotal	**A**	**B**	**A**	**A**	**B**	**B**	**B**	**C**	**B**	**B**	**B**
E. Advancement of English and French—Part VII (25%)											
a) Strategic planning and the development of policies and programs take into account the development of official language minority communities (12.5%)	B	B	B	A	B	B	B	B	A	B	A
b) Strategic planning and the development of policies and programs take into account the promotion of linguistic duality (12.5%)	B	A	B	A	B	B	A	B	B	B	A
Subtotal	**B**	**B**	**B**	**A**	**B**	**B**	**B**	**B**	**A**	**B**	**A**
OVERALL RATING	**C**	**C**	**B**	**B**	**B**	**B**	**B**	**B**	**C**	**B**	**B**

[1] Data not publicized for confidentiality reasons (only one small office in Quebec).
[2] No staff in Quebec (excluding NCR).

Findings and analysis

Program management

An analysis of the results shows progress has been made in the way many institutions are managing the implementation of the Act. Some have put an accountability framework into place, others, an action plan. Overall, their commitment to official languages is now more readily apparent in strategic documents, for example, reports on plans and priorities, departmental performance reports and business plans. The institutions that have distinguished themselves in terms of program management include the **Canada Border Services Agency**, the **Canadian Air Transport Security Authority**, the **Economic Development Agency of Canada for the Regions of Quebec** and **Citizenship and Immigration Canada**, which come in at the top of the class with an "Exemplary" rating for the three criteria. The same, unfortunately, cannot be said of the Halifax Robert L. Stanfield International Airport Authority, which received a low grade in this category.

Service to the public

Data regarding service to the public shows, once again this year, that some institutions are performing poorly. First, many institutions lack policies or guidelines that inform employees of senior management's commitment to promoting both official languages. The same can be said of institutional documents related to communications with the public and service delivery in both official languages. Furthermore, institutions rarely use monitoring mechanisms for service delivery in both official languages, and when they do so, the mechanisms are rather weak.

When organizations do monitor service provision, it is often limited to a single mode of delivery, such as the telephone or the web site. Yet, all institutions should continuously monitor all methods of direct service delivery to the public and give more responsibility to employees required to serve the public in both official languages.

However, most institutions have made an effort to list bilingual points of service in telephone directories. Some also make a point of distributing the list of bilingual points of service to official language community representatives. In addition, services delivered by third parties or under partnership agreements generally include standard language clauses in their contracts. Nevertheless, the monitoring of bilingual service delivery leaves much to be desired, and non-compliance with the terms of a contract rarely leads to any consequences. Senior management must show greater commitment in this area.

Another noteworthy fact: the language skills of employees who provide service to the public and institutions' ability to provide bilingual services have remained virtually unchanged compared to last year. The rating is around 90%. This means that 90% of employees responsible for providing service to the public in both official languages meet the language requirements of their positions. However, this percentage does not include the three lowest scores, which come from the Canadian Forces (40%), the Ottawa Macdonald-Cartier International Airport Authority (63%) and Canada Post (72%).

Results from the field: Analysis of observation results

In federal institutions, services can be delivered to the public in many ways: in person, over the telephone, over the Internet, by written communications or by using newspapers, radio and other media. This year, the performance report cards focus on two of these methods: service provided in person and over the telephone.

To obtain a representative sample of the performance of each of the 37 institutions that were evaluated, the Office of the Commissioner carried out 918 observations of service over the telephone and 850 observations of service in person across the country. This sample was established by Statistics Canada.

The following table presents the results of the observations made in the field between mid-June and mid-July 2006.

Table 1
Observation results for service in person and over the telephone in 2006–2007[*]

Institution	In person			Over the telephone	
	Visual active offer	Active offer by employee	Adequate service	Active offer	Adequate service
Agriculture and Agri-Food Canada	60%	0%	56%	55%	63%
Atlantic Canada Opportunities Agency	69%	0%	85%	93%	86%
Business Development Bank of Canada	81%	12%	65%	93%	80%
Canada Border Services Agency	99%	16%	87%	85%	89%
Canada Economic Development for the Regions of Quebec	85%	0%	92%	80%	100%
Canada Mortgage and Housing Corporation	86%	21%	86%	95%	78%
Canada Post Corporation	94%	8%	78%	64%	77%
Canada Revenue Agency	100%	34%	89%	90%	90%
Canadian Air Transport Security Authority	93%	14%	73%	100%	100%
Canadian Food Inspection Agency	80%	10%	66%	78%	61%
Canadian Forces	88%	0%	76%	95%	68%
Canadian Museum of Civilization Corporation	100%	100%	100%	100%	100%
Canadian Tourism Commission	100%	50%	100%	100%	100%
CBC/Radio-Canada	66%	13%	65%	67%	80%
Citizenship and Immigration Canada	100%	11%	72%	100%	100%
Correctional Service Canada	77%	0%	63%	74%	55%
Environment Canada	93%	19%	94%	49%	56%
Fisheries and Oceans Canada	83%	0%	81%	78%	69%
Halifax Robert L. Stanfield International Airport Authority	33%	0%	0%	100%	100%
Health Canada	61%	17%	84%	75%	88%
Indian and Northern Affairs Canada	73%	0%	73%	60%	53%

[*] Note that Statistics Canada also compiled observation results by province and territory, which included all observations from all institutions. These results were an approximation of each region's overall performance. However, the results from the territories (Yukon, Northwest Territories and Nunavut) are only representative of performance in their capital cities, since the observations were limited to these places. The number of observations carried out in each province and territory ranges from 7 (Nunavut) to 142 (Ontario). Results are available at www.ocol-clo.gc.ca.

Table 1 (cont.)

Institution	In person			Over the telephone	
	Visual active offer	Active offer by employee	Adequate service	Active offer	Adequate service
Industry Canada	84%	12%	74%	92%	89%
National Arts Centre	100%	33%	100%	100%	100%
National Capital Commission	100%	75%	100%	100%	100%
National Film Board of Canada	75%	0%	88%	78%	89%
NAV CANADA	75%	25%	100%	100%	50%
Ottawa Macdonald-Cartier International Airport Authority	100%	0%	33%	100%	100%
Parks Canada Agency	82%	36%	83%	93%	94%
Passport Canada	93%	40%	93%	100%	88%
Public Health Agency of Canada	85%	20%	90%	85%	77%
Public Works and Government Services Canada	85%	21%	87%	66%	75%
Royal Canadian Mounted Police	79%	14%	56%	54%	58%
Service Canada	80%	8%	70%	87%	88%
Statistics Canada	100%	20%	100%	100%	89%
Transport Canada	85%	19%	68%	82%	83%
Western Economic Diversification Canada	90%	10%	90%	82%	73%
VIA Rail	83%	25%	88%	76%	100%
Total	**87%**	**13%**	**75%**	**73%**	**77%**

Visual active offer consists of a series of visual elements present in service points that indicate to customers that service is offered in both official languages. While some institutions obtained excellent marks in this area, others had disappointing results, notably the Halifax Robert L. Stanfield International Airport Authority, Agriculture and Agri-Food Canada, Health Canada and CBC/Radio-Canada.

Active offer by staff refers to the use of a bilingual greeting by an employee when communicating with a member of the public. This ensures that members of the public feel comfortable using their language of choice when they deal with a federal institution. In this regard, the overall results are quite worrisome. During the previous year, it was observed that an active offer was rarely made by employees (24%). This year, it has plunged to 13%. In addition, there was no active offer made in 10 out of the 37 institutions that were evaluated. The Commissioner is disappointed with these results and was hoping to see an improvement. He considers such a performance unacceptable. The results show that front-line supervisors are neglecting to ensure services are provided in both official languages. When it comes to active offer by employees, the facts could not be clearer: it is not part of the federal administration's service culture (except at the Canadian Museum of Civilization Corporation). Front-line agents fail to take advantage of numerous opportunities to promote the equality of status and use of English and French when serving the public. Moreover, there are no consequences for employees not complying with the legal obligation to actively offer service to the public in English and in French, as stipulated in section 28 of the Act.

Recommendation 5

The Commissioner recommends that deputy heads in federal institutions ensure front-line employees and all agents who respond to client enquiries actively offer services in both official languages at first contact in order to enhance the use of the public's official language of choice.

Furthermore, the quality of service provided in person in the language of the minority is adequate three times out of four (75%). These results are consistent with those of previous years. Six institutions received excellent marks, delivering adequate service during all visits by the Office of the Commissioner. In contrast, the Halifax Robert L. Stanfield International Airport Authority did not provide adequate service on any occasion. In addition, the progress made by two institutions as regards service in person should be noted: Environment Canada and the Canada Mortgage and Housing Corporation.

Active offer through service over the telephone refers to the public's first contact with an employee or automated system. Observations have shown that some institutions performed quite well in this respect. However, others that had obtained satisfactory results for in-person service received low marks for service over the telephone. This is the case with Environment Canada, which was only able to provide adequate telephone service half of the time. In contrast, the Halifax Robert L. Stanfield International Airport Authority, which failed miserably with regards to active offer and service in person, obtained an "Exemplary" rating for active offer and adequate service over the telephone in the minority language.

Language of work

In preparing the performance report cards, several criteria were used to examine the question of language of work. The following findings were most noteworthy this year.

Several institutions still do not have documents that reflect senior management's commitment to creating a workplace conducive to the use of both official languages and promoting English and French. However, most of these institutions have nonetheless taken concrete measures to enhance the use of both languages in the workplace and allow employees in a minority situation to work in the language of their choice, for example, through translation and revision services or the indication in the personnel file of the employee's preferred language. Other measures primarily encourage employees in a majority situation to use their second language. These include, for example, language training and retention programs, writing tools and alternating between languages during meetings.

Furthermore, the Commissioner is pleased to note an increase in the number of senior managers who meet the language requirements of their positions in the departments that were evaluated. Overall, more than 90% of them meet the language requirements of their position. This is significant because when managers communicate between one another and with their employees in the listener's language, they are putting into action senior management's commitment to promoting the use of both official languages. All the same, the Commissioner notes that some departments evaluated for the first time this year are lagging behind, namely the Public Health Agency of Canada (76%) and Western Economic Diversification Canada (71%).

The Commissioner noticed little change in the bilingual capacity of supervisors who occupy positions outside of senior management. The rate is generally between 85% and 90%. Based on the number of supervisors who meet the language requirements of their position, three institutions appear to have difficulty supervising their employees in the language of their choice: Canadian Forces (33%), the Canadian Air Transport Security Authority (58%) and Canada Post (58%).

As mentioned previously, the Commissioner used the results of the 2005 Public Service Employee Survey to determine the level of satisfaction of Francophone employees working in the National Capital Region (NCR), New Brunswick and the bilingual regions of Ontario, as well as Anglophone employees working in designated bilingual regions in Quebec.[39]

The findings of the public service surveys conducted in 2005 and 2002 allow an analysis to be made of the evolution of employee satisfaction in nine departments regarding language of work. The Commissioner notices a modest increase in the level of satisfaction among Francophones working in the NCR, New Brunswick and the bilingual regions of Ontario. In terms of the satisfaction levels of Anglophones working in the bilingual regions of Quebec, the Commissioner notes both increases and decreases.

- The material and tools provided for my work, including software and other automated tools, are available in the official language of my choice.
- When I prepare written materials, including electronic mail, I feel free to use the official language of my choice.
- When I communicate with my immediate supervisor, I feel free to use the official language of my choice.
- During meetings with my work unit, I feel free to use the official language of my choice.
- The training offered by my organization is available in the official language of my choice.

The level of satisfaction has been interpreted as the number of respondents who said they "strongly agree" or "mostly agree" with each statement above.

Survey results indicate that, for Francophones in minority situations, the possibility of using their language of choice in written communications and during meetings remains a problem. Anglophones in minority situations in Quebec, in turn, find it difficult to receive training in English and use their language of choice in team meetings.

The following table presents employee satisfaction levels as determined by the five questions in the 2005 Public Service Employee Survey regarding the possibility of working in their language of choice. Note that these results only represent the satisfaction levels of employees in a minority situation who work in regions designated bilingual for the purpose of language of work.

The Commissioner sent the detailed survey results to each institution to help them in their efforts to encourage the use of English and French in the workplace.

[39] See the methodology section at the beginning of this chapter.

Table 2
Language of work survey

Institution	Satisfaction levels among Francophones (NCR, N.B., Ont.) 2006–2007	Satisfaction levels among Anglophones (Que.) 2006–2007
Agriculture and Agri-Food Canada	69%	*
Atlantic Canada Opportunities Agency	88%	**
Business Development Bank of Canada	77%	94%
Canada Border Services Agency	68%	81%
Canada Economic Development for the Regions of Quebec	97%	*
Canada Mortgage and Housing Corporation	73%	59%
Canada Post Corporation	70%	58%
Canada Revenue Agency	71%	72%
Canadian Air Transport Security Authority	61%	*
Canadian Food Inspection Agency	74%	58%
Canadian Forces***	39%	84%
Canadian Museum of Civilization Corporation	81%	**
Canadian Tourism Commission	*	**
CBC/Radio-Canada	84%	79%
Citizenship and Immigration Canada	77%	84%
Correctional Service Canada	76%	43%
Environment Canada	69%	70%
Fisheries and Oceans Canada	75%	*
Health Canada	68%	51%

* Due to the small number of respondents, Statistics Canada asked the Commissioner not to use these results.

** No offices in this region.

*** National Defence provides for the choice of language of work in some of its units outside of regions designated bilingual for purposes of language of work. Francophone respondents came from bilingual units in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Ontario and the NCR. Anglophone respondents came from bilingual units in Quebec.

Table 2 (cont.)

Institution	Satisfaction levels among Francophones (NCR, N.B., Ont.) 2006–2007	Satisfaction levels among Anglophones (Que.) 2006–2007
Indian and Northern Affairs Canada	72%	*
Industry Canada	75%	73%
National Arts Centre	81%	**
National Capital Commission	84%	**
National Film Board of Canada	*	89%
NAV CANADA	53%	72%
Ottawa Macdonald-Cartier International Airport Authority	60%	**
Parks Canada	76%	*
Passport Canada	80%	94%
Public Health Agency of Canada	69%	*
Public Works and Government Services Canada	79%	73%
Royal Canadian Mounted Police	66%	70%
Service Canada	75%	51%
Statistics Canada	82%	*
Transport Canada	75%	76%
Western Economic Diversification Canada	*	**
VIA Rail	61%	86%

* Due to the small number of respondents, Statistics Canada asked the Commissioner not to use these results.
** No offices in this region.

Equitable participation

This year, as in previous years, the institutions obtained very good marks in terms of equitable participation. It should be mentioned, though, that the participation of Anglophones in Quebec remains a problem for some institutions. For instance, at Parks Canada, the participation rate is 1.3%, while at the Economic Development Agency of Canada for the Regions of Quebec, it is 1.8%.

Advancement of English and French

The performance report cards included the Commissioner's evaluation of the way in which institutions meet their obligations under Part VII of the Act.

One of the evaluation criteria involves gauging the extent to which management committees of the institutions have obtained information for increasing their awareness of the amendments to the Act and encouraging them to begin thinking about the changes this entails. The information that was gathered shows that most committees had been given a presentation on the subject. In addition, among the institutions evaluated, 13 of the 16 institutions not required to report to Canadian Heritage now have coordinators responsible for Part VII or have formed a committee to coordinate the institution's efforts to meet their new obligations. However, in many cases, institutions have still not been given the names of relevant liaison officers to official language community groups.

Twenty-three out of the 37 institutions that were evaluated for the performance report cards have still not begun examining their policies and programs to determine which ones could have an impact on the development of official language minority communities or the promotion of linguistic duality. Yet this examination is essential for the implementation of the amendments to the Act. Similarly, most institutions required to report to Canadian Heritage on Part VII do not systematically carry out an annual, structured consultation with official language communities in the regions and have not reviewed their action plan with them. At times, the consultation process amounts to sending the institution's action plan to the associations and asking for feedback. The Commissioner expects more effort from institutions when it comes to consultation.

That being said, the institutions' report cards reveal a number of measures liable to have a positive effect on the development of official language communities or the promotion of the equality of status and use of English and French. Such initiatives are often carried out because of the leadership shown by a regional manager. At the national level, two institutions in particular stand out for their leadership in implementing Part VII of the Act. Citizenship and Immigration Canada and Statistics Canada obtained an "Exemplary" rating in each of the two criteria. This should serve as a source of inspiration for other institutions.

General observations

Perhaps because such high importance was given to results this year and the criteria for Part VII were tightened, none of the 37 institutions obtained an overall "Exemplary" rating. The following list is a breakdown of the overall ratings:

- **Good**: 16 institutions (which belong mainly to the "social, cultural and other" portfolio)
- **Average**: 16 institutions (which belong mainly to the "economy" portfolio)
- **Poor**: 5 institutions (which all belong to the "transport and security" portfolio)

Service Canada received a "good" rating overall, but did not perform well when service delivery was observed in the field. Yet, this institution should serve as a model in this area. The Commissioner expects an improvement in these results next year.

Success stories

It has become common place for the Office of the Commissioner to highlight, in its annual report, a sample of sucess stories pertaining to official languages. This year's success stories can be grouped into four main categories:[40]

- Promoting the federal administration as a bilingual workplace
- Using English and French in the workplace
- Improving service delivery to the public in the language of the linguistic minority
- Promoting English and French

Promoting the federal administration as a bilingual workplace

Some federal institutions work with post-secondary students to recruit bilingual staff. For instance, the **Public Service Commission of Canada** and **Human Resources and Social Development Canada** cooperate on a train-the-trainer initiative in Quebec. The goal is to promote the Commission's recruitment program among bilingual post-secondary students. Each May and June, an average of 150 students take a one-week training course that presents the public service as an employer of choice. In doing so, the Commission has increased the number of bilingual post-secondary students applying for summer jobs and full-time positions in federal departments in the province.

The **Public Service Commission of Canada** also employs student ambassadors in various universities in Quebec to promote the federal public service as an employer of choice. The **Canada Revenue Agency** has a similar project underway.

Using English and French in the workplace

Some institutions show great innovation in the way they hold their meetings. In November 2006, **Fisheries and Oceans Canada** decided to alternate between English and French during its management meetings. This practice aims to develop the second-language communication skills of senior managers. Since this initiative was launched, weekly meetings of the executive committee have been held alternately in English and in French, and documentation is distributed in both official languages. Given the considerable effort committee members are making to perfect their language skills, the initiative can be considered a resounding success. The **Canadian Air Transport Security Authority** has drawn inspiration from this practice, and since January 2007, the language in which mandatory management meetings are held alternates between English and French.

Furthermore, **Statistics Canada** has produced an information kit on bilingual meetings and made it available to meeting organizers and chairs. It has also produced a video entitled *An Unpleasant Meeting—Une réunion désagréable*, which illustrates the pitfalls of a bilingual meeting gone wrong.

Statistics Canada has also launched a pilot project to encourage bilingualism within the institution. Three organizers were hired to ensure work processes were respected and teamwork was successful. These people identify specific problems and propose solutions in order to promote and maintain a workplace conducive to the use of both official languages. Evaluation of the pilot project is set to begin in the spring of 2007.

[40] Note that an institution can appear in the "Success Stories" section and still obtain poor grades on its report card. There is no contradiction between the two.

Improving service delivery to the public in the language of the minority

Some institutions have found ways to improve language training for their staff. For example, the **Canada Border Services Agency**, in cooperation with the private sector, universities and colleges, has implemented an effective language training program. The project included negotiating agreements with the Canada School of Public Service and other departments to share materials and human resources. This is a fine example for other departments that rely on the Canada School of Public Service for language training.

Moreover, **Statistics Canada** has set itself the goal of ensuring that all supervisory positions be filled by bilingual employees as of April 1, 2007. Its transition plan included opening an on-site training centre to deal with any significant outstanding problems and ensuring that employees meet the language requirements as soon as possible. At Statistics Canada, director and section head positions are already bilingual imperative, while deputy head positions will follow suit in April 2007.

At the **Canadian Museum of Civilization Corporation**, training for new employees includes a component on official language awareness. What's more, to ensure services in both languages are of comparable quality, the Museum has added questions about official languages to the detailed questionnaire it will give visitors twice a year. The Museum plans to survey nearly 500 visitors annually. Lastly, the Museum has a five-year plan ensuring regular validation of the language skills of all employees in bilingual positions. All of these factors help ensure quality service in both official languages within the institution.

To improve access to justice in both official languages as well as communications with the public and service delivery, the **Group of Federal Tribunal Chairs**[41] created a working group on official languages. The group meets regularly to share the knowledge and experiences of various federal tribunals. Among other things, it has developed a general policy framework on official languages that can be used and adapted as needed by each of the tribunals to take their distinctive characteristics into account. The steps taken by federal tribunals is proof of their desire to have a better understanding of the nature of the obligations imposed on them by the Act in terms of the administration of justice, especially regarding their obligation to make their decisions available in both official languages.

Parks Canada's field unit in Jasper, Alberta, provides free office space to the local Francophone association in exchange for French courses for its employees and members of the local community. Since fall 2004, the association has offered two to three courses per year, and each course attracts 35 to 45 participants. Classes run 2.5 hours per week and are carried out over a period of eight weeks.

Service Canada's "Franco-allô" initiative, which was created in 2004, is another success story. This weekly forum, initially aimed at bilingual employees at the institution's Edmonton branch, is now open to all federal employees and students of the Canada School of Public Service who want to improve their French skills. About a dozen participants (not always the same people) get together during their coffee break to speak in French. Participants are also invited to do exercises to prepare them for the next meetings. The group leader, a Service Canada employee, sends out weekly e-mails about the activities of Alberta's Francophone community and a list of difficulties in the French language.

Promoting English and French

In an effort to encourage the development of linguistic communities, the **Canada Border Services Agency** informs official language community associations, committees and media about its job opportunities. In addition, the official languages coordinator for the Toronto region meets with college and university students in the French-speaking areas of Sudbury, North Bay and Timmins to promote job opportunities in the Agency.

[41] The Group of Federal Tribunal Chairs brings together more than 20 administrative tribunals. Their periodic meetings are a privileged forum for discussing administrative justice and sharing their experiences and innovative practices. Questions regarding official languages have been at the heart of the group's activities for several years now. Many of the tribunals have modified or standardized their official language practices as a result of the Group's work.

Another initiative that should be mentioned is the Citizenship and Immigration Canada-Francophone Minority Communities Steering Committee. This committee is co-chaired by **Citizenship and Immigration Canada**'s Assistant Deputy Minister, Operations, who is the official languages champion, and a representative from the communities chosen by the Fédération des communautés francophones et acadienne du Canada. The steering committee, in turn, has formed a committee to coordinate and promote the implementation of the *Strategic Plan to Foster Immigration to Francophone Minority Communities (2006–2011)*. Both committees work in partnership with the provinces, territories and communities.

The **Atlantic Canada Opportunities Agency** financed the PERCÉ (Programme d'entrepreneurship régional, communautaire et économique) program. Proposed by economic community groups, the project aims to counter the exodus from rural regions by making young people in Prince Edward Island's Acadian and Francophone communities aware of the economic possibilities and cultural wealth of their region. It also aims to encourage youth to return to the province to complete their university studies in French. Carried out over the summer, the project offered job-search training, career counselling services and seasonal internships of 10 to 12 weeks. It also paired Island businesses with students to make it easier for young people to return to the province. Last year, ten young people participated in the PERCÉ program.

For its part, **Service Canada** also sought to reverse the exodus of young people with a project entitled *Youth-Turn . . . Come Home to the Gaspé!* This project was designed to work in tandem with the provincial government's Youth Action Strategy 2005–2008. The idea of pairing students and businesses was also the focus of a project created by the **Economic Development Agency of Canada for the Regions of Quebec**. Entitled *Opportunities through Internship*, it gives young Quebec Anglophones a chance to work as an intern in Montréal in an English-speaking environment.

The **Economic Development Agency of Canada for the Regions of Quebec** has also financially supported a two-year pilot project to measure the vitality of Quebec's Anglophone communities. The project was carried out in cooperation with three groups: Carleton University, the Centre for Innovative & Entrepreneurial Leadership (CIEL) and the Réseau d'investissement social du Québec. The project has established approximately 100 community vitality indicators in the areas of education, culture, and economic and social development. The partners also ensured the support and tele-training of participating communities.

In terms of promoting linguistic duality and the equality of status of English and French, **Fisheries and Oceans Canada** has distinguished itself by organizing themed tours of the *hidden face* of Quebec in cooperation with Quebec City's English-speaking community. By way of guided tours, this project highlights the Anglophone community's historic contributions to the city. **Parks Canada** and **Service Canada** participated in the project under **Canadian Heritage**'s Interdepartmental Partnership with Official Language Communities (IPOLC). Fisheries and Oceans Canada have provided financial support, and one of its representatives has participated in the project's working committee, which is made up of members of Anglophone organizations, including the Literary and Historical Society of Quebec (LHSQ).

Regarding the promotion of linguistic duality, the work of **Industry Canada** must also be commended. It supported an initiative launched by Canadian Parents for French (British Columbia and Yukon branch) to create a new, highly interactive web site. This site is the primary source of information for Anglophones seeking training opportunities in French. In a similar vein, **Industry Canada** has worked closely with the British Columbia Société du développement économique to create a web site for Francophone tourism in the province and various activities related to the 2010 Olympic Winter Games.

The official languages champions at the **Canadian Food Inspection Agency**, in cooperation with the NCR official languages champion, organized a noteworthy event at the Ottawa central office in February 2006, allowing them to highlight the Agency's commitment to official languages. An invitation was sent to all employees at the Agency's Ottawa offices, and more than 300 came to an information booth set up in the entrance of the central office. Each person received an information kit containing, among other things, a toolkit filled with suggestions on how to maintain bilingual skills, hold bilingual meetings and ensure voice mail respects requirements with regards to service to the public. In total, coordinators prepared and distributed over 6,000 information kits throughout the Agency's administrative regions.

Lastly, the efforts of **Justice Canada**, **Manitoba Justice** and the **Association des juristes d'expression française du Manitoba (AJEFM)**—three partners responsible for launching the campaign entitled *Accès aux services juridiques en français*—should be applauded. Thanks to financial support from the two levels of government, the AJEFM launched an awareness and promotional campaign entitled *Mon droit, en français, mon choix*. The Institut Joseph-Dubuc, a French-language legal training centre, was also a partner. The project aims to support Francophones working in the legal profession in Manitoba and increase awareness among Manitoban youth, senior citizens and Aboriginal peoples about accessibility to the judicial system in French.

CHAPTER 5

INVESTIGATIONS AND AUDITS

Investigations and audits

Introduction

As language ombudsman, the Commissioner investigates complaints from the public regarding the implementation of the *Official Languages Act* (the Act). He determines whether or not the complaints are founded and, if so, works with the institution in question to find a permanent solution to the problem. The Commissioner also audits several federal institutions each year and follows up on the findings. These audits serve to detect and prevent major problems in the implementation of the Act within federal institutions. They also aim to obtain public commitments from senior officials to resolve any noted breaches.

This chapter examines the Commissioner's activities in two other aspects of his role as ombudsman, namely, investigations and audits. First, an analysis of the complaints received in 2006–2007 will be presented. Then, some of the types of complaints investigated over the course of the year that are of particular interest will be described, followed by a review of the Commissioner's court interventions and an account of the audits and follow-ups carried out over the past year. In conclusion, specific problems with compliance with the Act and proactive interventions will be discussed.

Analysis of complaints

Complaints received in 2006–2007

- The Office of the Commissioner of Official Languages received 999 complaints, a 6% increase over the 939 received the previous year.
- A total of 77% (774) of the complaints were considered admissible.
- As in previous years, most of the complaints (87%) came from Francophones.
- The number of complaints filed by Anglophones went from 127 in 2005–2006 to 133 this year (an increase of 4%).

The number of complaints received in 2006–2007 follows the general trend of the last four years.

Complaint investigation process

The Commissioner considers a complaint admissible when it meets the following three criteria: it relates to an obligation set forth in the Act, it involves an institution subject to the Act and it concerns a specific incident. If a complaint is admissible, it is investigated to determine whether there has been a breach of the Act (in which case the complaint is considered "founded") or not (the complaint is then considered "unfounded").

Once this process is completed, both the complainant and the institution in question are informed of the Commissioner's decision and recommendations if required, and are given the opportunity to comment on them. If necessary, the Commissioner also follows up on his recommendations to ensure they have been implemented.

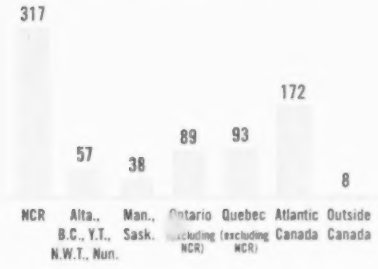
If the complaint is founded and the situation is appropriate, the Commissioner tries to work with the institution that was the subject of the complaint to find a quick solution to the problem. This year, 38% of admissible complaints were treated in this manner, the majority within 60 days of being filed.

Analysis of complaints

Figure 1 shows the origin of admissible complaints filed in the last year according to region.

Over half of the admissible complaints came from the National Capital Region (NCR) and the Atlantic provinces. The distribution of complaints by region is consistent with the pattern in previous years.

Figure 1
Number of admissible complaints by region
(April 1, 2006 to March 31, 2007)



Ten most frequently implicated institutions

This year, 353 of the 774 admissible complaints (46%) involved ten institutions. This ratio seems low compared to previous years, but the number does not take into account an important fact. Following the announcement in September 2006 of federal budget cuts, 117 complaints were filed. These cuts affected several programs and organizations that the complainants considered important to the vitality of their community and that, in their opinion, come under Part VII of the Act. These complaints involve more than one federal institution, but they are the subject of a general investigation and a single report. Therefore, the complaints filed against the ten most frequently implicated institutions, combined with those concerning budget cuts, represent 470 of the 774 admissible complaints, or 61% of all complaints, a much higher rate than usual.

Because of the nature of their mandate and roles, the institutions in Table 1 are in constant contact with the public. As a result, 67% of admissible complaints that involve these institutions concern service to the public.

It should be pointed out that even if these complaints are admissible, they are not necessarily founded. The Commissioner investigates all admissible complaints; however, some investigations may not be completed

before the end of the year in which they were received. Only when the investigation has been completed can it be determined whether a complaint is founded or not. This year, the number of complaints resolved in 2006–2007 based on investigation findings is presented in a separate table (see Table 2).

Table 1
Number of admissible complaints against the ten institutions most frequently implicated (April 1, 2006 to March 31, 2007)

Institution	Total number of admissible complaints
Air Canada	61
Canada Post Corporation	57
Public Works and Government Services Canada	39
Service Canada	37
Statistics Canada	36
National Defence	29
Canada Border Services Agency	28
Canadian Heritage	24
Canadian Revenue Agency	21
Correctional Service Canada	21
Total	**353**

Table 2
Number of complaints resolved as a result of investigations for the ten institutions most frequently implicated (April 1, 2006 to March 31, 2007)

Institution	Founded	Unfounded	Other[42]	Total
Air Canada	129	15	18	162
Public Works and Government Services Canada	49	16	9	74
Canada Post Corporation	40	8	0	48
Human Resources and Social Development Canada	32	2	1	35
Service Canada	26	6	0	32
National Defence	25	5	1	31
Canada Revenue Agency	20	4	0	24
Royal Canadian Mounted Police	20	2	0	22
Correctional Service Canada	13	7	1	21
Transport Canada	18	2	0	20
Total	**372**	**67**	**30**	**469**

[42] The "Other" category includes complaints withdrawn by the complainant during the course of the investigation. It also includes complaints that the Office of the Commissioner decided to abandon for various reasons. For example, the complainant may not have provided enough information at the beginning of the investigation, the investigation revealed that the complaint did not come under the jurisdiction of the Office of the Commissioner or the complaint was brought against an institution that no longer exists.

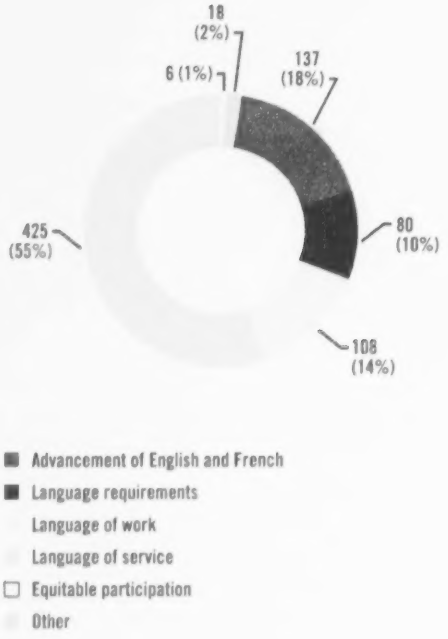
Over the past year, the Commissioner completed the investigation of 775 complaints and informed the complainants and institutions of the results. Of these complaints, 469 (61%) involved the ten institutions listed in Table 2.

Admissible complaints by main category

Admissible complaints for 2006–2007:

- 425 complaints concerned language of service, a decrease of 7% from the previous year. These complaints represent 55% of all admissible complaints filed in the past year.
- 108 complaints (14%) concerned language of work.
- 6 admissible complaints (1%) were related to equitable participation, a decrease of 57% compared to the previous year, when there were 14.
- 137 complaints involved the promotion of English and French (enhancing the vitality of official language communities and promoting linguistic duality). This was a dramatic increase from the previous year, when 6 were reported—a figure in keeping with prior years. This is where the 117 complaints related to budgetary cuts can be found.
- 80 complaints were related to the language requirements for positions, accounting for 10% of all admissible complaints filed over the course of the year and an increase of 25% from the previous year, when 64 were filed.

Figure 2
Admissible complaints by main category
(April 1, 2006 to March 31, 2007)



The following table presents the number of admissible complaints in 2006–2007 by province or territory and by major category.

Table 3
Number of admissible complaints by province or territory and by major category[43]

Province or territory	Admissible complaints	Service to the public	Language of work	Equitable participation	Advancement of English and French	Language requirements	Other[44]
Newfoundland and Labrador	2	2	0	0	0	0	0
Prince Edward Island	30	20	0	0	1	8	1
Nova Scotia	59	33	4	1	0	19	2
New Brunswick	81	33	20	2	7	18	1
Quebec	93	65	14	0	3	6	5
National Capital Region (Quebec)	88	17	15	1	50	4	1
National Capital Region (Ontario)	229	101	42	0	70	13	3
Ontario	89	71	11	1	1	4	1
Manitoba	31	29	0	0	2	0	0
Saskatchewan	7	4	0	0	1	2	0
Alberta	33	25	1	0	0	3	4
British Columbia	22	18	1	0	1	2	0
Yukon	2	1	0	0	1	0	0
Northwest Territories	0	0	0	0	0	0	0
Nunavut	0	0	0	0	0	0	0
Outside Canada	8	6	0	1	0	1	0
Total	**774**	**425**	**108**	**6**	**137**	**80**	**18**

[43] In 2006–2007, 77% of complaints were admissible. Uninvestigated complaints are sent to the appropriate institution (among other reasons, when a complaint involves another federal law, for example, in the case of a complaint about product labelling) or refused for not coming under the Act or its regulations.

[44] The "Other" category consists mainly of complaints regarding notices, the administration of justice and discriminatory measures following the filing of a complaint.

Communications with and Services to the public (Part IV)

As stated previously, Part IV of the Act aims to ensure Canadians can fully exercise their constitutional right to receive services of equal quality in the official language of their choice, in accordance with certain rules.

The five main categories of admissible complaints regarding communications with and services to the public are the following:

- Written communications (30%);
- Person-to-person communications (17%): receptionists, customs officers, postal workers, police officers, etc., who do not make an active offer of service in both official languages or who do not provide services in the language chosen by the client;
- Ground services for the travelling public (16%);
- Telephone communications (9%);
- Communications in the media (8%): nearly all of these complaints concerned the lack of advertising in minority official language publications.

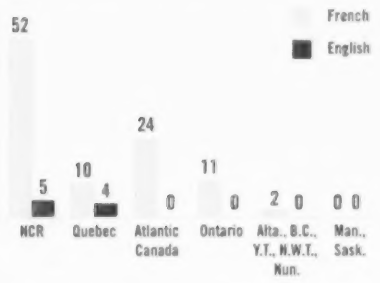
Language of Work (Part V)

Part V of the Act states "English and French are the languages of work in all federal institutions". All federal institutions subject to language of work obligations must provide their employees with the tools and conditions that enable them to carry out their duties in the official language of their choice.

The Office of the Commissioner investigated 108 admissible complaints regarding language of work. Once again, nearly 75% of these complaints fell into one of the following five categories:

- Internal communications (36%)
- Personnel and central services (14%)
- Work environment (9%)
- Supervision (8%)
- Face-to-face communications (7%)

Figure 3
Number of admissible complaints regarding language of work based on complainant's language of preference and region
(April 1, 2006 to March 31, 2007)



Equitable Participation (Part VI)

This year, the Office of the Commissioner noted a decrease in the number of admissible complaints (from 14 to 6) concerning the equitable participation of the two language groups in the public service.

Advancement of English and French (Part VII)

Several complaints involved breaches of Part VII of the Act, which sets forth the government's commitment to supporting the development of official language communities in Canada and to promoting the full recognition and use of both English and French in Canadian society.

As mentioned previously, there has been a marked increase this year in admissible complaints related to Part VII compared to last year: from 6 to 137. Of these complaints, 117 were related to the government's decision in September 2006 to cut a number of federal programs that the complainants felt were important to the vitality of official language communities across Canada.

Language requirements of positions (Part XI–section 91)

A total of 80 admissible complaints involved the language requirements of positions, an increase of 25% compared to the previous year.

Information requests[45]

The Office of the Commissioner receives hundreds of information requests each year. The Compliance Assurance Branch alone received 353 information requests in 2006–2007, most of which were of a general nature (publications, statistics and access to language training).

Investigation results of particular interest

The following tables contain some of the interesting cases that were resolved this year. They summarize investigations and follow-ups carried out to ensure the Commissioner's recommendations were implemented.

Part IV—Communications with and Services to the public

Topic
Ground service for the travelling public

Institution
Marine Atlantic

Problem

Marine Atlantic, a Crown corporation, did not offer service in French at the gatehouses, at the ticket offices or in the cafeterias of its North Sydney (N.S.) and Port aux Basques (N.L.) ferry terminals. In addition, ferry signs were not in French. When service was offered in French, the language quality left much to be desired.

Complaints founded

Solution
Marine Atlantic hired additional bilingual employees and modified the language designations of many positions in its terminals and on its ferries.

It also organized information and awareness sessions for all employees working in the terminals and on the ferries. These sessions focused on Part IV of the Act, which deals with communications with and services to the public.

In addition, Marine Atlantic made the necessary corrections to its signage. Furthermore, terminal and ferry staff now wear badges indicating Marine Atlantic's ability to offer service in both official languages. Signs are also used to indicate to clients where bilingual services are offered.

Marine Atlantic carries out an annual evaluation of the language skills of its bilingual employees and offers language training to those who need it.

[45] This section only includes information requests received by the Compliance Assurance Branch. Information requests pertaining to government policy, the responsibilities of other levels of government and related subjects are not included.

Part IV—Communications with and Services to the public (cont.)

Topic	Problem	Solution
Communications with the general public **Institution** Several airport authorities	Investigations into over 100 complaints revealed that many airport authorities did not consider themselves obligated to communicate with the general public in both official languages. **Complaints founded**	The lack of clear rules or policies from the federal government regarding the language obligations of airport authorities contributed to this situation. The Commissioner made three recommendations, two of which called on the federal government to take corrective measures. The third called on airport authorities to develop action plans to follow up on the federal government's new rules.
Topic Telephone communications **Institution** Fisheries and Oceans Canada	**Problem** The Canadian Coast Guard's Marine Communications and Traffic Services office in Sydney (N.S.) was unable to provide adequate VHF radio services in French during a series of communications with a seafarer who wanted to be served in French. **Complaint founded**	**Solution** The Department acknowledged some language deficiencies in its Sydney office. It committed to implementing the Office of the Commissioner's recommendations, which require appropriate instructions and a review of office policies and procedures.
Topic Job Bank file **Institution** Service Canada	**Problem** Over the years, the Office of the Commissioner has received numerous complaints about the poor quality of the translations of job offers available on the Job Bank site. **Complaints founded**	**Solution** In 2005, the Office of the Commissioner noted an improvement in the quality of the texts posted on the Job Bank site. In September 2006, Service Canada made further progress when it decided that all job offers would be revised before being posted. The Department thus ensured high quality texts in both official languages and responded to the Commissioner's recommendations in a satisfactory manner.

Part IV—Communications with and Services to the public (cont.)

Topic

URL addresses

Institution

Treasury Board Secretariat

Problem

Some federal institutions were using mostly English text in the URL addresses of their web sites. Treasury Board policy only required the first part of institutions' URL addresses to be bilingual.

Complaint founded

Solution

The Office of the Commissioner recommended that the Treasury Board Secretariat modify its directives to specify that the entire URL address must be bilingual or written in the language used by the web page in question. The Treasury Board Secretariat carried out the recommendation and proceeded to significantly modify its *Common Look and Feel Standards for the Internet*.

Topic

Audio-visual communication

Institution

Société Radio-Canada

Problem

Reception of the signal from the Société Radio-Canada radio station FM 88.1 in the West Prince and Evangeline regions of Prince Edward Island was mediocre.

Complaint founded

Solution

The investigation concluded that the poor reception was due to the transmitter tower not being powerful enough. Radio-Canada conducted its own studies on improving the quality of the signal. As a result, two new transmitter towers were brought into service in October and November 2006.

Part V—Language of Work

Topic

Language of work

Institution

National Defence

Problem

In 2006, some newspapers reported that the technical and operating manuals for the mobile gun system would not be translated into French.

Complaint unfounded

Solution

National Defence was able to prove, with the support of various meeting documents from 2004 and 2005 (i.e., before the newspaper articles were published), that it had indeed ordered the technical and operating manuals to be produced in both English and French.

The Department also showed that the production contract for the manuals stipulated the documents were to be in both languages.

Part V—Language of Work (cont.)

Topic

Language of work

Institution

National Defence

Problem

According to allegations, National Defence chose individuals with insufficient language skills to fill bilingual military positions. The complainants argued that by doing so, the Department was infringing on their right to be supervised and receive training in the language of their choice.

Complaints founded

Solution

The investigation concluded that the Canadian Forces had not met their obligations to fill bilingual military positions with individuals who possessed adequate language skills. The Office of the Commissioner made 13 recommendations to the Department, which will be the subject of a follow-up at the end of 2007.

Part VI—Equitable Participation

Topic

Employment opportunities

Institution

Canadian Nuclear Safety Commission

Problem

A candidate was informed of the bilingual language requirements of a position during the final stage of the hiring process.

Complaint founded

Solution

The Office of the Commissioner recommended that the Commission review the complainant's situation and take measures to ensure the individual is treated fairly.

Part VII—Advancement of English and French

Topic

Promotion of English and French by commercial tenants

Institution

Parks Canada

Problem

A number of complaints reported the absence of service in French (and in one case, the absence of service in English) from private businesses on Parks Canada sites.

Complaints founded

Solution

Following the Office of the Commissioner's interventions, Parks Canada set in motion a national action plan to promote the use of English and French by commercial tenants who offer products and services to the public in their parks. Even though the complaints did not involve all of the parks, the investigation had an impact across the country.

Part XI (section 91)—General

Topic	Problem	Solution
Language requirements and bilingual capacity **Institution** Fisheries and Oceans Canada	The Department required that a watch-keeping mate position on a ship based in Shippagan (N.B.) be bilingual while staff in similar positions on other ships in the Maritime Region were not subject to the same language requirements. **Complaint founded**	The Office of the Commissioner established that the language profile of the position and the use of imperative staffing were justified by the functions of the position and by the operations of the ship. However, the Office of the Commissioner concluded that the Department fell short of its duty to acknowledge the language rights of its Francophone clientele on other ships in the region.
Topic Language requirements **Institution** Public Works and Government Services Canada	**Problem** The Office of the Commissioner received several complaints regarding the language designation of project manager positions at Real Property in the NCR. **Complaints founded**	**Solution** Following the Office of the Commissioner's intervention, the Department agreed to develop language training plans as quickly as possible for project managers in Professional and Technical Services who did not meet the language requirements of their position.

Court interventions

As ombudsman of Canadians' language rights, the Commissioner favours dialogue and cooperation in helping federal institutions meet their obligations. However, when institutions do not take the necessary measures to follow up on the Commissioner's recommendations, complainants can take the matter to court. Under the Act, the Commissioner has the power to intervene in any court actions. He generally exercises this power when the other options at his disposal have run out or when the action raises important legal questions regarding the interpretation of the public's language rights and the obligations of federal institutions.

For example, in *Thibodeau*, the Commissioner argued in Federal Court that Air Canada's subsidiaries had an obligation of result and not an obligation of means towards the travelling public and the complainant. The Federal Court accepted the Commissioner's argument, and Air Canada appealed the ruling, unsuccessfully, before the Federal Court of Appeal. In fact, the Federal Court of Appeal confirmed that the goal of the Act is to produce a specific result, in this case, to ensure that the travelling public has equal access to services in both official languages.

The Commissioner also intervened in the Federal Court of Appeal in *CALDECH* v. *Canada (Industry)*. In this case, the Commissioner argued the Department was required to ensure that the North Simcoe Community Futures Development Corporation (CFDC) offer the Francophone population services that are of equal quality to the services offered to the Anglophone community. While the Federal Court of Appeal ruled that Industry Canada had not fulfilled its obligations under Part IV of the Act, it adopted a limited interpretation of the nature of the rights guaranteed under Part IV of the Act. According to the Court, the simple fact that the CFDC offered the community documentation and services in French was enough to meet the requirements set forth in

this part of the Act. The Commissioner then filed a joint application for leave to appeal the ruling to the Supreme Court. The primary question submitted to the Supreme Court concerns Canadians' access to services of equal quality in both official languages and the federal government's obligations in this respect.

Finally, the Commissioner obtained intervener status in *Norton* v. *VIA Rail Canada Inc.* The Office of the Commissioner had already intervened on a procedural issue before the Federal Court and the Federal Court of Appeal to have the Federal Court's jurisdiction clarified in the case of actions that were brought in accordance with the Act. During the hearing that will eventually take place on the merit of the action, the Commissioner intends to argue his interpretation of the scope and nature of the obligations of federal institutions regarding the bilingual designation of positions. He will also present his position on the nature of actions to which the Act applies and the remedial power of the Federal Court.

Audits and follow-ups

The Commissioner of Official Languages carried out two audits and one follow-up in 2006–2007.

Canadian Radio-television and Telecommunications Commission (CRTC)

Purpose of the audit

The purpose of this audit was to examine the extent to which the CRTC meets its obligations with respect to supporting the development of official language communities and fostering the full recognition and use of both English and French in Canadian society.

It should be noted that, since 2003, the CRTC has been designated as an organization obligated to prepare an action plan for the implementation of section 41 of the Act.

Findings

Despite having put a good amount of work into this area since 2003, the CRTC does not yet fully meet its obligations. It must continue its efforts, particularly in light of the amendments to Part VII of the Act in November 2005.

Following the audit, the Commissioner made ten recommendations to the CRTC. In particular, he called on the CRTC to establish a structured and coordinated process for consulting the national and regional organizations of various official language communities regarding their specific radio and telecommunication needs. He also recommended that the CRTC review the list of policies liable to have a significant impact on these communities and on the promotion of linguistic duality to ensure these policies take section 41 of the Act into account when they are revised.

The Commissioner would like to highlight the CRTC's excellent cooperation during this process. The CRTC was open to constructive dialogue throughout the audit process. This allowed the Commissioner to better help it assume its responsibilities. The CRTC also developed an action plan to implement the Commissioner's recommendations. Overall, the Commissioner is very satisfied with these measures.

Direct health care delivery[46]

Purpose of the audit

The House of Commons Standing Committee on Official Languages asked the Office of the Commissioner of Official Languages to verify whether the Government of Canada is complying with the Act when it provides health care directly to certain groups or communities and whether it ensures that its obligations are met when it transfers responsibility to third parties.

This audit focussed on four federal institutions that deliver health care directly: Health Canada (health care for First Nations and Inuit communities), Veterans Affairs Canada, the Royal Canadian Mounted Police and Correctional Service Canada.

Findings

In general, the audit showed that managers were well aware of their responsibilities in terms of official languages. However, the Commissioner noted shortcomings regarding the active offer of service in the four institutions. The weaknesses that were observed include the lack of signage indicating active offer (at Veteran Affairs Canada), reception in person (at the Royal Canadian Mounted Police and Correctional Service Canada) and over the telephone (at Health Canada, the Royal Canadian Mounted Police and Correctional Service Canada), as well as greetings on answering machines (at Health Canada, the Royal Canadian Mounted Police and Correctional Service Canada).

Moreover, Health Canada, Veterans Affairs Canada and Correctional Service Canada require a level of bilingualism from their health professionals that is too low when it comes to oral interaction, given the complexity of the tasks to be carried out.

In addition, our audit revealed that, with the exception of Health Canada, the institutions do not systematically include language clauses in their contractual agreements with health professionals. The same is also true of financial agreements with the provinces and health centres that have bilingual requirements.

Lastly, the Commissioner noted the generalized absence of monitoring mechanisms within the four institutions. Such mechanisms could ensure greater respect for language obligations in terms of health care delivery.

The Commissioner formulated 30 recommendations in total, 6 for Health Canada, 7 for Veterans Affairs Canada, 6 for the Royal Canadian Mounted Police and 11 for Correctional Service Canada.

Canada Post Corporation

Purpose of the follow-up

The follow-up concerned the implementation of recommendations in an audit report published by the Office of the Commissioner in May 2004. One of its goals was to measure the progress achieved in the provision of service in both official languages at postal counters designated bilingual across Canada.

Findings

The Commissioner is disappointed with the slow progress made by Canada Post since the recommendations were made in 2004. At the time of the follow-up, only 4 out of 13 recommendations had been implemented in a satisfactory manner. In the field, the Commissioner noted that one out of every two postal counters did not actively offer service in both official languages over the telephone, four out of five counters did not offer it in person and one out of four counters did not provide appropriate service in the official language of the minority over the telephone or in person. Canada Post has agreed to take additional measures; however, most of these are rather vague and do not come with deadlines.

Even though Canada Post has improved its monitoring structure, results are mixed. The poor performance of counters operated by retailers (postal franchises) lowered Canada Post's overall score.

According to the Commissioner, Canada Post must include a separate section in its managers' performance evaluations on the obligation to ensure service in both official languages at all times. Such a measure is key if the institution is to make any progress.

[46] The publication of this final report is scheduled for the 2007-2008 fiscal year.

Particular issues of compliance with the *Official Languages Act*

When an investigation or audit reveals a federal institution is in breach of the Act, the Commissioner often makes recommendations to it. He then carries out a follow-up to ensure that the institution has implemented the recommended corrective measures.

This year, an analysis of the recommendations issued to institutions that are the subject of a performance report card reveal some problem areas regarding compliance with the Act. The institutions mentioned in the following table were penalized in their performance report card scores; however, when the institutions made significant progress towards resolving the problem, the penalty was less severe.

Institution	Summary of problem
Canadian Air Transport Security Authority	In the process of being solved: Service provision in the language of the minority by the Canadian Air Transport Security Authority in most of the country's busiest airports.
Canada Border Services Agency	In the process of being solved: Service provision in French at the counters of the Canada Border Services Agency at Toronto-Lester B. Pearson International Airport and at highway border crossings in Ontario.
Canadian Tourism Commission	The Canadian Tourism Commission's breaches with regard to the use of the minority press during its advertising campaigns are a significant problem.
Canadian Forces	The insufficient number of bilingual military supervisors and military personnel able to provide central and personnel services in both languages hinders the creation of a workplace conducive to the effective use of both official languages.
Canada Post Corporation	Service provision in the language of the minority at Canada Post's bilingual postal franchises remains a serious problem.

Proactive interventions

The Commissioner plays a proactive role with regard to verifying compliance with the Act. Thanks to increased monitoring of media coverage, over the course of the year, the Commissioner learned of situations in which compliance with the Act was doubtful. He intervened as soon as possible and, with the cooperation of the institution in question, succeeded in finding solutions.

For instance, the Commissioner intervened with the Royal Canadian Mint following the publication of a newspaper article denouncing the lack of bilingualism on its web site. He also interceded with Fisheries and Oceans Canada when he learned that it had used an English-only questionnaire during a consultation process with public servants in Quebec.

The Commissioner also addressed provincial and municipal government organizations and a number of firms to make them aware of the importance of respecting linguistic duality and of serving members of the public in the language of their choice.

It should also be noted that proactive interventions taken in the past continue to bear fruit. At the Canada Winter Games in Whitehorse, Yukon, which took place between February 23 and March 10, 2007, bilingualism was in the spotlight, thanks to 500 bilingual volunteers. For the past 20 years, linguistic duality has been integral to the Canada Games, regardless of the region in which it is held. However, this was not always the case. After several complaints regarding the English unilingualism of the Summer Games in 1985, the Office of the Commissioner, in cooperation with Fitness and Amateur Sport, worked to raise awareness among the three hosts of the Canada Games in 1987, 1989 and 1991. By intervening in this manner, the Office of the Commissioner helped prevent complaints from being filed.

The Office of the Commissioner is currently studying other methods of intervention.

Conclusion

The compliance audit activities undertaken in 2006–2007 have concluded the following: performance is uneven from one institution to the next and according to the areas evaluated.

The institutions' uneven results point to a lack of leadership and ongoing commitment from the senior public service and central agencies in terms of official languages. While progress has been made in certain areas, the road ahead is obviously still a long one.

CONCLUSION

Conclusion

The year 2006–2007 was noteworthy in part because Graham Fraser began his term as the sixth commissioner of official languages.

The new Commissioner assumed his duties in October with a great degree of determination. He began his mandate with a vision of Canada in which English and French are fully valued as Canadian languages. For the Commissioner, Canada's official languages policy is more than a question of rights. It is based on the universal values of respect, generosity and integrity. These values are central to the Canadian reality and are rich in significance. They are an opportunity for all Canadians, regardless of their origin, culture, religion or social background, to contribute to this vision of Canadian linguistic duality.

In this annual report, the Commissioner has prepared the groundwork for a reflection that will continue throughout his seven-year term. Two main ideas have emerged. The first concerns the *Official Languages Act* (the Act), the primary instrument for implementing language rights, which are also enshrined in the *Constitution Act, 1867* and the *Canadian Charter of Rights and Freedoms*. The Commissioner pointed out early on that the federal government does not live up to its eloquent discourse when it comes time to apply the Act.

This report has specifically discussed the amendments made to Part VII of the Act in November 2005. At this turning point in the history of Canadian language rights, parliamentarians clearly expressed their desire for federal institutions to adopt "positive measures" to promote linguistic duality and enhance the vitality of official language communities. The obligation to take "positive measures" therefore does not come from an obscure guideline or policy: it is a legal requirement enshrined in the Act. Yet more than 18 months after the amended Part VII came into effect, a lack of understanding persists within the federal government regarding the scope of its obligations under this part of the Act. Most federal institutions are still unclear on how to give form to the government's commitments in their respective areas of operation.

Furthermore, compliance assurance activities for the entire Act point to an uneven state of affairs, depending on the institution and factors studied. Clearly, the road ahead is a long one: indecision and lack of determination must be replaced

by creativity and initiative. The Commissioner concludes that a more energetic and sustained commitment from political leaders, the senior public service and central agencies would standardize and improve the performance of federal institutions when it comes to official languages. The time is ripe for renewal in the public service. Two committees are currently studying the subject. The Deputy Ministers' Committee on Public Service Renewal brings deputy ministers together under the aegis of the Privy Council Office to examine the public service's operations. For its part, the Advisory Committee on the Public Service is made up of members from outside the federal government. These are excellent opportunities to reflect on how linguistic duality can be strengthened within the public service.

The second main idea to emerge from this annual report concerns the *Action Plan for Official Languages*, which is entering its fifth and final year this spring. The Commissioner noted that the past year has been marked by the uncertainty surrounding the future of this plan and the government's willingness to renew it. Yet for the Commissioner, the Action Plan is a concrete expression of Canada's fundamental values, as described above. It is evidence that the country cares about remaining faithful to its roots. While it cannot be denied that it faltered in some areas and its coordination was occasionally inadequate, the Action Plan has nonetheless proven its worth. It has given the official languages policy the new momentum it needed to offset the budget cuts that have affected official language communities in previous years.

The Commissioner of Official Languages therefore urges the federal government to renew its commitment to the Action Plan. In particular, he recommends that the government begin designing an ambitious initiative this year that will ensure the future of official language communities and the promotion of linguistic duality.

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